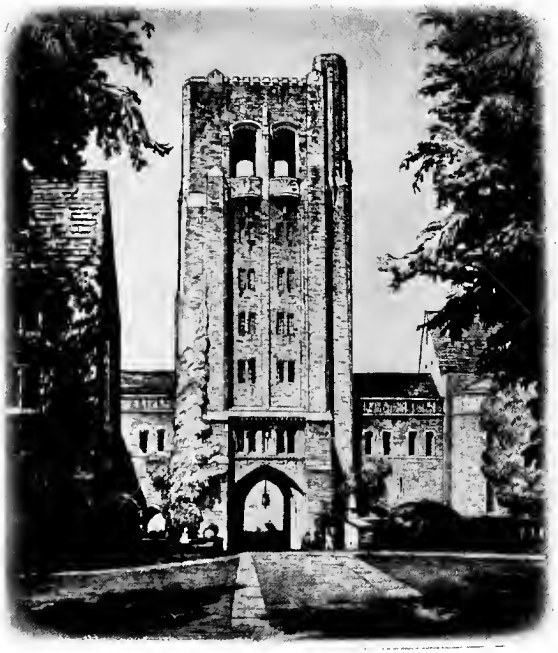

DIGEST

OF

DECISIONS AND REGULATIONS

MADE BY

THE COMMISSIONER OF INTERNAL REVENUE

UNDER

VARIOUS ACTS OF CONGRESS RELATING TO INTERNAL REVENUE,

AND

ABSTRACTS OF JUDICIAL DECISIONS AND OPINIONS OF ATTORNEYS-GENERAL AS TO INTERNAL-REVENUE CASES,

From June 13, 1898, to December 31, 1904.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
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INTRODUCTORY.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, July 1, 1905.

The following Digest of Decisions and Regulations made by the Commissioner of Internal Revenue under the various acts of Congress relating to internal revenue, including abstracts of judicial decisions and opinions of the Attorney-General as to internal-revenue cases, covering the period from June 13, 1898, to December 31, 1904, is published for the information of officers of the internal revenue and all others concerned.

JOHN W. YERKES,
Commissioner.

DIGEST

OF

INTERNAL REVENUE DECISIONS

RENDERED DURING 1898 TO 1904, INCLUSIVE.[a]

A.

Abatement and refunding.

Claims for refunding documentary stamps should be made on Form 46, accompanied by stamps, and by the instruments or a copy thereof. In cases of claims for amounts paid for stamps used on deeds of property sold subject to mortgage, it must be shown in every case whether the mortgage was assumed. Refund will be made in the name of the party who bore the burden of taxation. (T. D. 212; September 14, 1900.)

Claims for abatement of taxes must be filed with collectors of internal revenue. (T. D. 229; October 2, 1900.)

Claims for abatement must be presented within two years after payment. Right of action accrues on the payment of the tax and not upon the date of subsequent decisions or rulings. Claims filed with collectors two years or more after payment should be forwarded to the Commissioner of Internal Revenue for his action. (T. D. 237; October 25, 1900.)

In claims for refunding documentary stamps used in error or in excess, the original instruments to which stamps are affixed, or certified copies thereof, must be filed. Collectors' or deputy collectors' certificates as to copy are sufficient. (T. D. 248; November 20, 1900.)

The date of receiving refunding claims by collectors and deputy collectors must be entered on record book No. 22, and collectors should certify on claims the date of receipt. (T. D. 238; October 30, 1900.)

The Comptroller of the Treasury, in opinion rendered March 30, 1900, holds, and the Commissioner concurs, that, where penalties were collected by authority of law, the Commissioner has no power to refund, inasmuch as his authority in claims for refunding is confined by the statute to penalties collected "without authority of law." (T. D. 153; June 11, 1900.)

Abatement of taxes.

Referring to schedule of taxes abated as per order 25865, and to the large number of balances rejected, the collector is advised that these balances should be promply collected by distraint if not paid on demand, the Commissioner adding that "when a warrant of distraint is returned with the report of no property found to be liable to distraint, the deputy reporting must accompany the return warrant with his affidavit on Form 53. If the parties refuse to pay,

[a] The initials T. D., appearing at the end of each abstract and preceding the date thereof, stand for "Treasury Decision."

Abatement of taxes—Continued.

and you are satisfied from the affidavit of the deputy collector on Form 53 that the tax can not be collected by distraint, you should place the distillers' bonds in the hands of the United States attorney for suit unless you are satisfied that the sureties are insolvent, in which case you will please report the facts to this office for further advice." (T. D. 785; April 29, 1904.)

When an assessment of taxes is made against an individual it is the collector's duty to collect the same without questioning the legality of the assessment. If, however, a reasonable claim for abatement be presented, the collection may be suspended pending the consideration of it, unless it appear that suspension will jeopardize the payment of the tax. (T. D. 621; January 20, 1903.)

Where two assessments have been made covering the same liability, the first should be credited with the payment. If by error the second assessment has been credited with the payment, the credit should be erased and entered upon the proper list. The second assessment is erroneous and may be abated. (T. D. 508; April 22, 1902.)

Accident insurance tax.

Monthly reports can not be made in installment insurance. No rebate or refund for stamps or for policies surrendered for changes in terms or canceled upon the return of all or any part of the premium. (T. D. 20022; September 7, 1898.)

Policies of accident insurance, or renewal receipts, are not subject to stamp tax until issued. A policy is issued when it leaves the company or the company's representative and is operative in the hands of some one not representing the company. Stamp tax is based on the amount of premium, regardless of its payment in installments. The policy, not the application, is subject to tax. (T. D. 20027; September 8, 1898.)

Accounts—Cigar manufacturers.

Manufacturers making two or more classes of cigars and cigarettes, subject to tax at different rates, are privileged to keep separate records for each class, Form 73, and render separate monthly returns, Form 72. The several accounts, relating to each class of goods made, must be reported by the collector separately and on separate sheets, Form 144. All *unstamped* cigarettes inventoried January 1 of each year shall be included in the account relating to cigarettes tax paid at $1.08 per thousand. If the tobacco material used in making both large and small cigars or cigarettes is taken from a common stock the account relating to small cigars or cigarettes shall be credited with 5 pounds of unstemmed or 3 ponnds of stemmed leaf, scraps, cuttings, or clippings used in manufacturing 1,000 small cigars or cigarettes reported manufactured. The account relating to large cigars will then be chargeable with the total quantity of material apparently used, less the quantity reported used in making small cigars or cigarettes. (T. D. 517; May 12, 1902.)

The several accounts of manufacturers of cigars who make cigarettes of more than one class must be stated separately on Form 144. The accounts as stated must show the number of cigarettes stamped and removed from the factory tax paid at the several rates without reference to tax or the wholesale value or price of unstamped cigarettes. The deficiencies, if any, will appear in the accounts relating to cigarettes tax paid at the highest rate, $1.08 per thousand. (T. D. 463; January 24, 1902.)

Accounting.

Collectors should render accounts on Form 210 for all sales of personal property seized, whether under distraint or for violation of law. If sale is made under any other than section 3460, the number of the section should be substituted

Accounting—Continued.

for 3460 where it appears in Form 210. All vouchers should be taken in the name of the disbursing officer (the collector) claiming credit for the disbursements and not in the name of a deputy collector, although, if desirable, the receipt may state that the amount was received of the collector, per deputy collector, giving his name. (See also Method of advertising, same decision.) (T. D. 273; February 5, 1901.)

Each collector is urged to give the records of delinquent special-tax payers such inspection, from time to time, as will enable him to discover when any one of them has so increased his business and to report each of such persons *on the list for the month in which the increase occurs*, stating on the list the full period of liability from commencement of business and giving the number of the special-tax stamp, if any has been issued, and writing in column 7 of the assessment list the words "Increased tax." This should be done in order that a prompt settlement of the increased liability may be secured by assessment, or, if a stamp at a higher rate has been issued, that special correspondence as to the 50 per cent penalty apparently due may be obviated. (T. D. 272; January 31, 1901.)

The accounts of manufacturers who make cigarettes of more than one class, as stated on Form 144, should show the number of each class removed from the factory properly stamped. (T. D. 463; January 24, 1902.)

The accounts of manufacturers of small cigars should be stated separately, and on separate sheets, apart from the accounts relating to the manufacture of large cigars and cigarettes, and each account should show separately the number of pounds of tobacco material used in the manufacture of large or small cigars or large and small cigarettes, as the case may be, and the number of such cigars or cigarettes manufactured. (T. D. 517; May 12, 1902.)

Accounts.

Beginning with the month of April, 1900, the collectors are required to pay the fees and expenses of all storekeepers, and storekeepers and gaugers, as well as their compensation, and requisitions should be made for funds accordingly, on Form 42, in the districts to which these officers are assigned. (T. D. 65; March 8, 1900.)

Collectors are advised that on and after July 1, 1900, no collector's office will be graded No. 1 whose system is so defective as to permit the officer or employee who receives public money and issues stamps therefor to receive also the orders, requisitions, or papers direct from the taxpayer, on which stamps are issued or tax collected, thus enabling such officer or employee to withhold from deposit public funds and retain in his possession the order, requisition, or paper upon which the money is paid. (Int. Rev. Circular, 136; May 28, 1900.)

Hereafter all accounts of gaugers, storekeepers, or of storekeeper and gauger, where expenses are incurred, must be authenticated by a travel order which should be dated and signed by the collector, and delivered to the gauger, storekeeper, or storekeeper and gauger, the travel order being attached to the account. (T. D. 18; January 22, 1900.)

Additional tobacco tax.

In the case of James D. Patton, trading as J. D. Patton & Co., *v.* Maggie A. Brady, executrix of J. D. Brady, collector, brought originally in the United States circuit court, eastern district of Virginia, involving the constitutionality of additional tax of 3 cents per pound, under section 3, act of June 13, 1898, for tobacco in the hands of dealers, the Supreme Court of the United States held, in opinion delivered by Justice Brewer, that while the tobacco had

Additional tobacco tax—Continued.

passed from the manufacturer it had not reached the consumer, being held for sale by the plaintiff, the conclusion being that "it is within the power of Congress to increase an excise as well as a property tax, and that such an increase may be made at least while the property is held for sale and before it has passed into the hands of the consumer." (T. D. 492; March 26, 1902.)

Administration of oath.

Officers who are authorized to administer oaths must perform that duty in a dignified and proper manner and not in a perfunctory way. The practice on the part of officers, wherever indulged in, of indicating, by signing their names to jurats, that they have administered an oath where that duty has not been performed at all, or if performed, the formality and solemnity of the act so far disregarded as to reflect upon the officer and the Service, must be discontinued at once. (T. D. 456; January 2, 1902.)

Affidavits.

Losses by fire, theft, and other casualty:

It is necessary in all cases of alleged losses by fire, theft, or other casualty that the affidavits be indorsed by the collector, or by his deputy, with his recommendation as to the allowance of the claim, and if an investigation was made under direction of the collector, the facts as developed by such inquiry should be shown, in order that this office may give the cases proper consideration. (T. D. 710; October 17, 1903.)

Agreements of sale, etc.—Stamp tax. (See also Decisions 19972, 20093.)

Tax on sales "at any exchange, or board of trade, or other similar place." Live stock comes within the classification of "any products or merchandise." "Similar place" defined in reference to the selling of live stock; sales of live stock at such places as those defined subject to taxation. (T. D. 20031; September 13, 1898.)

Transactions of live-stock exchanges—Duty of exchanges, when sale is made, or an agreement of sale, or an agreement to sell entered into, to give to buyer a bill, memorandum, or other evidence of such sale, and to place thereon the required stamp. (T. D. 19739; July 20, 1898.)

Alcohol—Special tax.

Druggists who deodorize and redistill alcohol for sale involve themselves in special-tax liability as rectifiers. (T. D. 732; December 19, 1903.)

Alcoholic compound fruit juices.

Alcoholic compounds called fruit juices can not be lawfully manufactured for sale, whether for flavoring purposes or for any other use, except under the special-tax stamp of a rectifier; and the package sent out must be duly stamped. Fortified sweet wines must not be used in compounding. (T. D. 807; July 11, 1904.)

Auctioneers selling liquor—Special tax.

Auctioneers can not lawfully sell distilled spirits and wines and malt liquors without holding the requisite special-tax stamp as liquor dealers under the internal-revenue laws of the United States, even when they do not sell these liquors "save when consigned by executors of estates, trustees, or receivers appointed by equity courts, or United States courts in bankruptcy, or by a sheriff, constable, or bailiff, and the sales are ordered by court of jurisdiction and the commissions allowed auctioneers do not justify the expense for special tax." (T. D. 827; September 20, 1904.)

Alexander's wantage rod.

Increase in price to users:

Collectors are notified that, owing to increased cost of labor and materials, the contractor for furnishing Alexander's improved wantage rod has found it necessary to increase the price to $1.75 each, which, until further notice, will be the price of the rod to all persons in the Internal-Revenue Service. Applications for the rod by persons in the Service must be addressed to the Commissioner of Internal Revenue, and at the same time the price stated above, in a money order or draft, must be forwarded to the Commercial and Farmers' National Bank at Baltimore, Md., payable to the order of that bank. *In no instance must the remittance be sent to this office or be made payable to the Commissioner.* (T. D. 746; February 1, 1904.)

Ale or barley brew—Special tax.

A beverage containing but an infinitesimal quantity of alcohol, and (although in color and flavor it has a general resemblance to malt liquor) not being, in fact, such a fermented liquor as section 3339, Revised Statutes, describes, is not taxed under the internal-revenue laws of the United States, nor is special tax required to be paid for its sale. (T. D. 690; August 12, 1903.)

Allowance for proprietary stamps.

No allowance can be made for proprietary stamps which may be on goods in customs bonded warehouse, or in the place of manufacture, July 1, 1902, unless the stamps are removed from the packages and accompany the claim, or the deputy collector of internal revenue certifies that he has seen each stamp and has indorsed upon the face of each of them the words, "Claim for refunding filed." (T. D. 522; May 16, 1902.)

Annual bonds—Suits.

Decision in United States *v.* National Surety Company, an action instituted by the United States on a distiller's bond, executed by Wilson Howard, principal, and the National Surety Company, as surety:

The distiller's annual bond held liable for tax on spirits produced and removed from the warehouse without payment of tax when the warehousing bond is insolvent. The judgment of the lower court (112 Fed. Rep., 336) reversed. The construction of a revenue act by the Treasury Department, though not controlling, is entitled to respectful consideration. (T. D. 665; June 2, 1903.)

Army-post exchanges—Special tax.

Army-post exchanges are not required to pay special tax as dealers in oleomargarine. (T. D. 632; March 4, 1903.)

Arrests—Swearing to complaints.

Deputy collectors must not swear to complaints for violation of the internal-revenue laws until they have examined the witnesses as to the truth of the charges and are satisfied that there are reasonable grounds for believing that the charges are true. (T. D. 510; April 25, 1902.)

Assessment of tax.

Proper procedure in cases of property assessed in the hands of a receiver requires that the collector shall serve notice on the receiver of the assessment against the persons and request payment, and also call upon the United States district attorney to appear before the State court and move for an order upon the receiver to pay the amount of this assessment before payment of any other debt that is not a specific lien against the property, in view of the right of the UnitedStates to priority of payment under section 3466, Revised Statutes. (T. D.667; June 10, 1903.)

Assessment.

Assessment of tax on fruit brandy:

In order that the taxes due and not paid on brandy may be promptly assessed, in accordance with the regulations of April 15, 1901, as amended, and the collection of the same enforced, collectors should instruct officers engaged in the examination of fruit distilleries to keep a close and effective supervision of the operations of such distilleries, and to report each month all brandy gauged and not tax paid or removed for the fortification of wine or to a special bonded warehouse in ample time for the assessment of the same in column 10½ of the next list. See Circular 575 (p. 2, par. 5) as to the visits of officers at distilleries during active operations of the same. (T. D. 782; April 26, 1904.)

Assessment of fruit distillers' tax:

In making formal demand for payment of taxes on remainder interests, under the act of June 13, 1898, as amended by the act of June 27, 1902, where a claim for abatement is filed, collectors should notify executors, administrators, or trustees, on whom such demand is made, that penalty and interest imposed by section 3184, Revised Statutes, will be incurred by nonpayment within the prescribed time, if the assessment made is sustained by the courts. Where payment of such tax is made on demand, the collector will notify the executors, administrators, or trustees that claim for refund may be made under section 3220, Revised Statutes, if presented within the time limited by section 3228, Revised Statutes. (T. D. 695; September 14, 1903.)

The assessment made by the Commissioner is *prima facie* evidence, and is sufficient to support judgment for the Government in a suit on the distiller's bond, unless the defendant is able to show that it is invalid. When a fruit distiller has received pomace, in the absence of any explanation otherwise accounting for it, it is justifiable to infer that the material was used in the production of spirits at the rate of 1 gallon to 14 gallons of pomace. (T. D. 786; April 30, 1904.)

The circuit court of the United States for western district of North Carolina May term, 1903, charges jury as to power of Commissioner to assess taxes. The list is *prima facie* evidence that the tax is legal. When suit is instituted against the collector to recover taxes the burden is upon the plaintiff to establish, by proof, that the assessment is erroneous, and he must show that the tax is not due by *a preponderance of evidence*. (T. D. 662; May 22, 1903.)

Where an assessment of revenue taxes is made it is the collector's duty ordinarily to proceed with the collection of the tax without questioning the legality of the same. (T. D. 621; January 20, 1903.)

Assignee—Special tax.

An assignee may continue business under his assignor's special-tax stamp without involving himself in special-tax liability. (T. D. 611; December 27, 1902.)

Associations—Stamp tax.

Deeds of building and loan associations, conveying real property to a nonshareholder, are not exempt from stamp tax under section 17, act of June 13, 1898. (T. D. 285; February 15, 1901.)

Proxies or powers of attorney, used to vote at meetings of building and loan associations, are liable to stamp tax. Former rulings inconsistent with this are revoked. (T. D. 270; January 26, 1901.)

Authority of decisions of Commissioner.

The decisions of the Commissioner are authoritative, and can not be overruled by any other executive officer. Appeal to the courts can only be made after taxes have been paid and application for refunding rejected by the Commissioner. (T. D. 20459; December 22, 1898.)

B.

Banks and bankers—Special tax.

A company, one branch of whose business is the banking business, but whose capital is employed without the separation and assignment of any particular part of it to the business of banking, is required to pay special tax reckoned upon the basis of its entire capital and surplus for the preceding fiscal year. A bank, even though its officers make return that no capital or surplus is employed in its business, is required to pay special tax under paragraph 1 of section 2, act of June 13, 1898. (T. D. 21421; July 25, 1899.)

A new special tax is not required when a State bank is converted into a national bank under the provisions of section 5154, Revised Statutes, without affecting its identity, there being simply a change of name and a change of jurisdiction. (T. D. 123; May 11, 1900.)

A person who sells his personal checks is not required to pay special tax therefor as a banker. (T. D. 227; October 10, 1900.)

An association which has a place of business where promissory notes are received for either discount or sale must pay a special tax as a banker. (T. D. 20062; September 16, 1898.)

Bankers, as well as all other special-tax payers, must be included in Record No. 10, kept by collectors for public inspection under section 3240, Revised Statutes, but nothing is required to be stated in the record but the name of the special-tax payer, his business, the place of business, and the time of payment of the special tax. (T. D. 19969; August 27, 1898.)

Bankers who have not been in business during the preceding year must pay the special tax at the rate of $50 for the year beginning July 1, 1898. (T. D. 20114; September 28, 1898.)

Banks engaged in business in the month of July, 1898, are required by paragraph 2, act of June 13, 1898, to pay the special tax, imposed by said paragraph, for the entire year, beginning July 1, in pursuance of the provisions of section 3237, Revised Statutes, which applies to all special taxes under the internal revenue law of the United States. (T. D. 19758; July 25, 1898.)

Borrowed money employed as capital must be taken into account in estimating special tax. Money placed with bankers by customers, upon time certificates of deposit, not regarded as capital. (T. D. 20154; October 5, 1898.)

Claims for refunding special tax by banks on undivided profits not used in the business of banking may be made on Form 46, but, if banking associations prepare a better form for the purpose, the same may be used to advantage. (T. D. 20751; February 24, 1899.)

City merchants who receive on deposit money from country merchants who are their customers, for the convenience of the latter, but not opening such accounts with the public generally, are not regarded as subject to special tax as bankers within the meaning of paragraph 1, section 2, of war-revenue act. (T. D. 20342; November 18, 1898.)

Every bank (except a savings bank coming within the express exempting provision of the statute) is required to pay special tax even though no capital is employed in its business. A separate special tax must be paid for every branch bank or separate place at which the business of banking is carried on. (T. D. 21782; November 18, 1899.)

In estimating special tax upon capital and surplus, the amount of invested capital in United States bonds is not to be deducted. (T. D. 19695; July 14, 1898.)

Banks and bankers—Special tax—Continued.

Building and loan associations making loans on collaterals to their own members only, and paying withdrawals of small amounts on demand upon receipts of their own members from whom they receive such deposits of money, are not by reason thereof liable to special tax as bankers. (T. D. 130; May 15, 1900.)

Loaning money on the personal notes of the borrowers, without collateral security, is not the business of banking contemplated by the statute. (T. D. 20264; October 28, 1898.)

Manufacturing companies having on hand cash surplus awaiting use in payment of dividends, which surplus meanwhile is loaned upon collaterals, are required to pay special tax as banks under the act of June 13, 1898. The amount of surplus on hand for the purpose of making loans is the basis to be considered in estimating the amount of special tax. (T. D. 19560; June 23, 1898.)

Merchants who are receiving deposits from grain buyers with which to cash tickets for grain, and not from the general public, do not become, by reason of such transactions, involved in special-tax liability as bankers. (T. D. 20341; November 18, 1898.)

No part of the undivided profits of any bank is to be included in the amount of capital and surplus on which the special tax is reckoned, except such as the board of directors has authorized to be set apart for use in the general business of banking, and Form 457, on which the bank return is to be made, is intended to be used in conformity with this interpretation of the law and with the requirements of the revenue service. (T. D. 21284; June 20, 1899.)

See also Decisions 12, 20544, 20648, 21395, 21708.

Sums deposited by so-called special depositors, who receive as interest part of the earnings of the bank, are considered part of the working capital of a bank and are to be included in the returns to which the special tax of $2 on each $1,000 thereof is to be reckoned. (T. D. 20645; January 27, 1899.)

The Attorney-General, in opinion delivered February 4, 1899, holds that the undivided profits of a bank are not surplus and can not be estimated under the act of June 13, 1898, as a part of the bank surplus; and the special tax should be computed on the basis of the capital and surplus for the fiscal year preceding the time at which the assessment is made. (T. D. 20681; February 7, 1899.)

Where persons are in business, both as bankers and brokers, and are members of the stock exchange, the value of the seat in the stock exchange is not to be regarded as part of their banking capital, and is not to be taken into account in reckoning the amount of special tax required to be paid by them as bankers. (T. D. 20723; February 18, 1899.)

Where a banking firm (not a corporation) changes its name, without change in its membership, special tax is not required to be paid again on account such change. (T. D. 20786; March 2, 1899.)

The advancing or loaning of money by brokers on the collateral security of stocks, if these loans or advances are confined by them strictly to customers who have given them, as brokers, orders for the purchase of stocks, and the collateral is held solely to secure themselves in filling such orders, is not regarded as involving them in special-tax liability as bankers within the meaning and intent of the statutes. (T. D. 21152; May 12, 1899.)

The undivided profits of a bank constitute a sum set apart by law or by action of the board of directors, but not used in the business of banking, and, therefore, not liable to special tax. (T. D. 21224; May 31, 1899.)

Regulations announced by the Commissioner, as substituted for those prescribed in paragraph 9, Circular 554, governing the preparation of the special assessment list for bankers, in making returns. (T. D. 119; May 5, 1900.)

Banks and bankers—Special tax—Continued.

When the charter of a bank is surrendered and the same persons, who are officers and stockholders, carry on private banking business, these private bankers must make return and pay their own special tax. (T. D. 20336; November 16, 1898.)

The receiving of employees' deposits on interest does not involve a company or firm in special-tax liability as bankers under paragraph 1, section 2, act of June 13, 1898. (T. D. 20343; November 18, 1898.)

Where two banks, which have carried on business in separate places and have each paid its special tax, consolidate, the consolidated bank must pay special tax at the rate of $50 from the first day of the month when it began business to the 1st day of July following. (T. D. 20419; December 13, 1898.)

Incidental banking:

Borrowed capital should be taken into account in estimating amount of special tax required from bankers under the first paragraph of section 2, act of June 13, 1898. (T. D. 19793; July 28, 1898.)

1. In cases of "incidental banking," wherein a firm uses, for purposes of lending, only those funds derived from the proceeds of merchandise sold, the special tax is applicable; and, if the funds thus used have not exceeded $25,000 in the preceding fiscal year, the amount of special tax will be $50.
2. On a charter party the tax is required on the original charter party only, the stamp affixed being for the entire tax. Copies of the charter party are not taxable.
3. Shipping receipts and bills of lading, issued in exchange, are alike taxable at 10 cents, and the requisite stamp must be affixed to each; but no tax is required on copies.
4. A business firm, when acting as brokers, must pay a tax of only 10 cents on each contract of sale but none on contracts of purchase. (T. D. 19571; June 25, 1898.)

Private banks, "unincorporated," having a capital less than $25,000, are nevertheless liable to the special tax of $50 imposed by paragraph 1, section 2, act of June 13, 1898. (T. D. 19936; August 23, 1898.)

The definition of "banker," who is liable to pay the special tax imposed by the first paragraph of section 2, act of June 13, 1898, is that of a firm or company having "a place of business where credits are opened by the deposit * * * of money or currency, subject to be paid or remitted upon draft, check, or order," whether a profit be realized out of such deposits or not. (T. D. 19682; June 12, 1898.)

Making bank returns:

Bank returns should be made in conformity with the following rules, viz: The tax shall be computed upon the capital and in estimating capital surplus shall be included. In estimating surplus undivided profits must be included. The law provides that the amount of such annual tax shall in all cases be computed on the basis of the capital and surplus for the preceding fiscal year, and this office holds that if the capital and surplus varied from time to time during the preceding fiscal year the same may be averaged, as was specifically provided by law in the case of capital under the revenue act of June 30, 1864. It was found to be necessary in the case of deposits under the act of 1864 to ascertain the average by adding together the amounts at the close of business of each business day and dividing the amount by the number of business days. This method should be adopted under the new law. The need of averaging is obviously greatest as to undivided profits. It is held to be improper to

Banks and bankers—Special tax—Continued.

Making bank returns—Continued.

reduce the amount of undivided profits by unaccrued interest or by profits to be divided. (T. D. 19797; July 29, 1898.)

NOTE.—This and similar rulings were subsequently modified in conformity with an opinion rendered by the Attorney-General February 4, 1899, holding that "the undivided profits of a bank are not surplus, and can not be estimated under the law in question as a part of the bank's surplus." (See vol. 1, No. 6 (1899), p. 287, T. D.)

The lending of money on household goods or on other chattel property is not the business of banking as contemplated by the statute of June 13, 1898. (T. D. 20344; November 18, 1898.)

Where the capital of a bank exceeds $25,000, the tax of $2 (additional to the $50 special tax) is only required to be paid on each $1,000 over and above the $25,000 of capital. For any excess that is less than $1,000 no additional special tax is required. (T. D. 20166; October 11, 1898.)

Banking—Liabilities classified:

The test question as to the liability of a company or firm as bankers, as laid down in the case of Selden *v.* The Equitable Trust Company (94 U. S. R., 419), is whether or not, having a place of business, a firm or person is embraced in any of the three following classes:

First. Do they have a place of business "where credits are opened (to the general public) by the deposit or collection of money or currency, subject to be paid or remitted upon draft, check, or order?"

Second. Do they have a place of business where money is advanced or loaned on collaterals (stocks, bonds, etc.)?

Third. Do they have a place of business where stocks, bonds, bullion, bills of exchange, or promissory notes are received from another person, for sale, or bills of exchange or promissory notes are received for discount, belonging to that other person? (T. D. 20349; November 21, 1898.)

Merchants do not bring themselves within the definition of bankers in the first paragraph of section 2 in the act of June 13, 1898, by reason of selling their own drafts to their customers; they are not, on this account, required to pay special tax as bankers. (T. D. 20365; November 21, 1898.)

Special tax must be paid for every branch established by a bank at which the business of banking is carried on. (T. D. 20397; December 6, 1898.)

Capital and surplus:

A company, even though it does not receive on deposit, nor collect money or currency subject to draft, check, or order, and does not receive stocks, bonds, bullion, bills of exchange, or promissory notes for discount or sale, is nevertheless required to pay special tax as a bank, if it advances or loans money on any of these securities as collateral; but it is not subject to this special tax if its advances or loans are made only on the security of mortgages on real estate, with accompanying promissory notes. (T. D. 460; January 13, 1902.)

A bank beginning business during the year ending June 30, 1901, is not required to pay special tax on its capital for this year. Under the new law going into effect July 1, 1901, a bank then or thereafter beginning business must pay the special tax reckoned on its capital "at the time of commencing business." (T. D. 293; March 7, 1901.)

Bankers must return for taxation capital, surplus, undivided profits, and borrowed money used in the business of banking. (T. D. 440; December 3, 1901.)

Banks or stationers may purchase imprinted stamps which they procured and sold to their customers and, as the bona fide owners thereof, present claims

Banks and bankers—Special tax—Continued.

Capital and surplus—Continued.

in their own names for the redemption of such stamps without regard to the number purchased from each customer. (See Internal-revenue circular No. 603.) (T. D. 361; June 18, 1901.)

In addition to the third clause of section 3408, Revised Statutes, taxing the circulation of banks, section 19, act of February 8, 1875 (18 Stat., 311), provides that every person, firm, association, other than national bank associations, and every corporation, State bank, or State banking association, shall pay a tax of 10 per cent on the amount of their own notes used for circulation and paid out by them. (T. D. 453; December 28, 1901.)

Opinion of the Attorney-General on capital and surplus of banks. Previous opinion of February 4, 1899, reaffirmed. Congress, in taxing capital, meant to tax only the capital of the bank in its strict technical sense under the banking laws, and that, in taxing surplus, it meant the fund formally set apart by the board of directors as surplus in its restricted and technical sense in banking. (T. D. 262; January 5, 1901.)

Question of the tax on undivided profits of banks involved in suits against Collector Treat pending in the United States circuit court of the southern district of New York. Returns should be made and tax assessed according to ruling of this office as contained in Circular No. 615. If abatement claims are filed, further action may be postponed, awaiting a final judicial decision. (T. D. 464; January 29, 1902.)

The statute requiring that the special tax imposed on banks shall be reckoned on the basis of the capital and surplus, the phrase "in estimating capital, surplus shall be included" is not to be construed as having some restricted meaning, but is to be taken in its natural and ordinary sense as including the entire overplus of assets over liabilities, and, therefore, as including undivided profits. (T. D. 538; June 23, 1902.)

The third clause of section 3408, Revised Statutes, taxing circulation of bank notes or obligations, is still in force; and sections 19 and 20, act of February 8, 1875, imposing a tax of 10 per cent on circulation of notes of other persons or associations than national banking associations, are also in force. (T. D. 453; December 28, 1901.)

The question, involving special tax on the undivided profits of banks, raised by suit of Leather Manufacturers' National Bank against Collector Treat, decided in favor of the Government. Pending appeal, abatement claims are filed and collection of tax postponed, awaiting further instructions. (T. D. 549; July 12, 1902.)

Trust companies doing a banking business must include with their banking capital, in reckoning the amount of special tax which they are required to pay, the amount set apart for use in conducting their storage business. (T. D. 402; August 8, 1901.)

Trust companies doing a general banking business must include, as part of their capital in their special-tax return, moneys required to be deposited as security with the treasurer of the State, as required by State laws, before doing business.—New ruling. (T. D. 401; August 8, 1901.)

Ruling 440, Treasury decision of December 3, 1901, is to be applied to special-tax returns made by banks for the current year, and not to former years in cases of banks that have made returns and paid special tax for those years. (T. D. 446; December 11, 1901.)

Where a bank has made return and paid special tax for the year beginning July 1, 1901, on its capital and surplus for the preceding fiscal year, it is not

Banks and bankers—Special tax—Continued.

Capital and surplus—Continued.

required to pay any further special tax for the current year by reason of an increase of its capital. (T. D. 446; December 11, 1901.)

While in returns made by banks there may be deducted from the undivided profits any amount necessary to pay dividends that have been actually declared, and also any reasonable sum for contingent expenses, no deduction is allowable of any sum for "prospective losses." (T. D. 574; August 29, 1902.)

Bank checks—Return—Cancellation.

The joint resolution approved by Congress February 26, 1902, authorized the return by the Commissioner of Internal Revenue, after cancellation, of bank checks, drafts, etc., having imprinted stamps thereon, to the owners thereof, and for other purposes. All such checks, drafts, and so forth, remaining unclaimed by the owner at the expiration of one year after the passage of this act are directed to be destroyed in such manner as may be prescribed by the Commissioner, with the approval of the Secretary of the Treasury. (T. D. 476; February 26, 1902.)

Bank circulation.

In the case of Iron Gate Bank *v.* Maggie A. Brady, executrix of James D. Brady, it appears that the bank refused to pay a tax of 10 per cent upon notes issued by it as currency and paid out as such. Collector Brady distrained upon the property of the bank to collect the tax, amounting to $70. Suit for damages originally brought against Collector Brady. Case remanded by the Supreme Court to the circuit court, with instructions to set aside judgment, and enter one abating the action by reason of the death of the defendant, being an action of tort. (T. D. 493; March 29, 1902.)

Bank surplus—Special tax.

Construing the war-revenue act in reference to special tax on the capital and surplus of banks, the United States circuit for the southern district of New York held that Congress used the word "surplus" in its ordinary sense as indicating the amount left over after setting aside sufficient of the assets of a banker to meet his liabilities. This ruling of the court applies to national banks and to banking firms alike. (T. D. 538; June 23, 1902.)

Cases in which are involved questions relating to the collection of taxes on the undivided profits of banks are postponed, awaiting a final judicial decision, as indicated in Treasury Decision 464. (T. D. 472; February 7, 1902.)

It is held in pursuance of the decision in the case of the Leather Manufacturers' National Bank *v.* C. H. Treat, collector, rendered by the circuit court of appeals, second circuit, New York, that, under section 2, act of June 13, 1898, bankers are required to return for the year ended June 30, 1902, for taxation, all moneys used by them in carrying on their business, and that banks in making their returns should include therein their capital, surplus, and undivided profits, or other profit and loss account, except so much thereof as may be actually necessary and has been set apart to meet ascertained liabilities and losses or to pay dividends actually declared by the directors of the banks, to pay taxes, or to pay fixed annual charges, and other necessary annual expenses. (T. D. 569; August 20, 1902.)

Bank tax—Undivided profits on capital.

The term "capital" should be read as meaning the same thing in respect to a corporation that it does in respect to an individual banker. When it appears that undivided profits have been carried over many dividend periods and have in the meantime been used in the business like the other assets of the

Bank tax—Undivided profits on capital—Continued.

corporation, they are to be regarded as having become an accretion to the capital, and as such are to be taken into account in reckoning the special tax required of the corporation under section 2 of the act of June 13, 1898. (T. D. 750; February 9, 1905.)

Bay rum from Porto Rico—Stamp tax.

Collector instructed that when tax-paid packages of Porto Rican bay rum are received on the premises of a wholesale liquor dealer, he should make entry of the same on his book, Form 52, and when he disposes of the same he should also make appropriate entry on the book in like manner as in case of other packages of distilled spirits. Where a dealer makes a change of package of the goods in question and the resulting packages contain 5 wine gallons or more, he should obtain and affix wholesale liquor dealers' stamps in the usual manner. (T. D. 528; May 26, 1902.)

Beer—Special tax.

A brewer who holds the requisite special-tax stamp posted up at his place of business as a malt-liquor dealer for the sale of his beer in bottles may deliver this bottled beer from wagons driven from place to place, or from places of storage to his regular customers, whose standing orders he has at his place of business, without involving himself in additional special-tax liability. (T. D. 661; May 16, 1903.)

A liquor dealer who travels with horse and wagon, receiving written orders for bottled beer, taking orders to his place of business, and thereafter taking out the bottled beer and delivering it to those who had given him orders, involves himself in special-tax liability at the places of such deliveries, unless he shows that in every instance he set apart the bottled beer at his place of business as the property, absolutely and unconditionally, of the person who had ordered it, and took it directly from that place to the purchaser and made delivery without any condition as to payment. (T. D. 494; March 29, 1902.)

A mild form of beer put up in bottles and labeled "J. D. Iler's Rochester Tonic, Kansas City, Mo., U. S. A.," liable to stamp tax as a tonic under Schedule B, act of June 13, 1898, while that statute was in force: Decision of the United States circuit court for the eighth circuit, December term, 1902. (T. D. 630; February 25, 1903.)

A person who takes orders for beer and the money in payment therefor and transmits the orders and money to a brewer, who makes the sales and shipments directly to the persons giving the orders, is not required to pay special tax therefor, even though he receives a commission from the brewer on these orders. (T. D. 699; September 17, 1903.)

Claims for refund of beer taxes must be presented within two years after payment of the tax. Payment under protest is not regarded as a claim. (T. D. 423; October 24, 1901.)

Collectors are instructed with reference to requisitions for and sale of beer stamps, that as no stamps, denoting the new rate of tax, will be imprinted by collectors, all stamps in their hands on July 1, 1902, should be returned to the Commissioner. Care should be exercised that such stamps may not be packed, scheduled, or shipped with stamps of the same kind which have been received from brewers or manufacturers under section 5 of the act of April 12, 1902. (T. D. 529; May 26, 1902.)

Internal-revenue circular No. 605, extending time when the regulations requiring cancellation of beer stamps by perforations shall take effect, from August 1 to September 1, 1901. (T. D. 381; July 16, 1901.)

Beer—Special tax—Continued.

Preparatory to the execution of the act approved March 2, 1901, collectors are instructed to make requisitions for the usual supply of beer, cigar, and small cigarette stamps of the new issue as early as June 15, for sale to brewers and manufacturers on and after July 1, and all beer, cigar, and small cigarette stamps of present issue in the hands of collectors July 1 should be returned to this office, where the value of the same will be credited in collectors' accounts, and all such stamps in the hands of brewers and manufacturers on that date may be redeemed under existing provisions of law as stamps for which they have no use. (T. D. 354; June 3, 1901.)

Revised internal-revenue records should be prepared relating to the sale of stamps for beer, cigars, cigarettes, tobacco, and snuff, and special taxes, which take effect July 1, 1901. (T. D. 360; June 18, 1901.)

Records Nos. 3, 5, and 7, relating, respectively, to the daily sale of beer, cigar, and tobacco stamps, and record No. 11, relating to cigar manufacturers' accounts, have been revised. The present records, with proper changes in headings, will be used until the revised records are ready for distribution. (T. D. 366; June 22, 1901.)

Special tax is required to be paid for the manufacture for sale of the beverage called "beerine," which is made in part of fermented malt liquor and "is like a light table beer," and tax is required to be paid on this beer by the manufacturer as a malt-liquor dealer. (T. D. 429; November 1, 1901.)

The act to repeal war-revenue taxation, approved April 12, 1902, provides, with reference to exchanging and accounting for beer stamps, that, until appropriate stamps are prepared and furnished to collectors, the stamps heretofore used to denote the payment of revenue tax on beer may, on and after July 1, 1902, be presented to collectors of internal revenue, who shall receive them at the price paid for such stamps by the purchasers and issue in lieu thereof new or imprinted stamps at the rate provided by said act. (T. D. 503; April 16, 1902.

The fact that beer is conveyed through pipes from a brewery and bottled without having been put up in packages to which tax stamps could be affixed does not entitle the brewer to sell this bottled beer without paying special tax therefor as a malt-liquor dealer. The exempting provision of the statute relates only to a brewer's sales of beer in the original kegs or barrels to which the tax stamps are affixed. (T. D. 391; July 30, 1901.)

Beerine—Special tax.

A beverage made by mixing the preparation called "beerine extract" with ordinary tax-paid beer and water, the quantity of tax-paid beer used therein being so small as to merely constitute a flavor, and the beverage, though having the flavor, taste, and appearance of a malt liquor, containing but 0.49 per cent of alcohol by volume, does not come within the notice of the internal-revenue laws, as it is not regarded as among those fermented malt liquors for the manufacture and sale of which special tax is required to be paid. This ruling, however, is not applicable to any beverage called "beerine," which contains a larger per cent of alcohol, or in which a larger proportion of lager beer is used than is herein set forth. (T. D. 514; April 30, 1902.)

Brewers' packages.

Beer packages—Spigot holes:

Law forbids more than two spigot holes in beer packages.—Brewers allowed three months in which to put packages in legal condition. (T. D. 743; January 25, 1904.)

Brewers' packages—Continued.

Beer-spoiled stamps:

No refund will be allowed of money paid for stamps on packages of beer which have soured, if the packages have been removed from the brewery. (T. D. 799; June 14, 1904.)

Brewers' packages:

Referring to the closing of unauthorized spigot holes under certain conditions, and to the Commissioner's letter on the subject, dated January 28, 1904, it is held that the terms of said letter will not be construed to compel the removal of the metal rim or bushing surrounding the extra spigot hole, if the metal is shaped like the frustum of a cone, thus requiring a plug in the shape of a circular wedge which can not be driven into the interior of the cask. The plug so utilized will be planed even with the surface of the outer edge of the bushing in which it is inserted. (T. D. 751; February 16, 1904.)

Spigot holes:

Section 3342, Revised Statutes, limits the number of spigot holes which may lawfully exist in a beer package to two, one of which must be in the head and the other in the side. This provision of law has been construed to mean that there may be a spigot hole in the side in addition to the bunghole in the bilge of the barrel, except in cases where the package is arranged with a spigot hole in the bung itself, in which case no other spigot hole in the side is permissible. (T. D. 762; March 11, 1904.)

Beneficial interests—Legacy tax.

A beneficial interest, although made dependent by the testator's will upon some uncertain event, is nevertheless a vested interest where the event depends solely on the personal act or choice of the beneficiary. (T. D. 599; December 1, 1902.)

Circular No. 630 of July 15, 1902, has been modified by the opinion of the Attorney-General of August 1, 1902. That circular gave the impression that, in view of section 3 of the act approved June 27, 1902, tax did not attach to any legacies the actual possession or enjoyment of which was postponed until July 1, 1902, or thereafter; and that tax did not attach to life interests which did not come into the hands of the trustee prior to July 1, 1902. The circular, so far as it is inconsistent with the opinion of the Attorney-General dated August 1, 1902, is completely superseded by that opinion. (T. D. 595; November 14, 1902.)

Where any beneficial interest in personal property exceeding $10,000 in actual value, passing under the will of any person who died prior to July 1, 1902, and since June 13, 1898, became a vested interest at his death, tax attached thereto, even though the actual possession of the interest, whether by trustees or beneficiaries, was postponed until July 1, 1902, or later. (T. D. 595; November 14, 1902.)

Beverages—Special tax.

Referring to circular 636, dated December 15, 1902, it is held that, if any manufacturer of extracts or sirups, soda water, or other drinks susceptible of use as a beverage, introduces into such extract, sirup, or compound, in the manufacture of the same, a quantity of spirits or wine, or compounds thereof, not necessary in the manufacture or for the preservation of the same, thus constituting a compound liquor within the meaning of the statute, such manufacturer should be held liable to special tax as a rectifier, and wholesale or retail liquor dealer, or both, according to the quantity sold at one time, and the venders of such compound will render themselves liable to special tax with relation to the sale of the same. (T. D. 624; January 24, 1903.)

Bills of exchange, foreign.

The amendment to paragraph 5 of Schedule A, exempting from tax certain foreign bills of exchange drawn against the value of products actually exported, construed as to the act of March 2, 1901. (T. D. 385; July 23, 1901.)

Two facts must be established, under the war-revenue law as amended by the act of March 2, 1901, in order that a foreign bill of exchange may be exempted from stamp tax, viz: 1. That the merchandise against the value of which the bill of exchange is drawn was actually exported. 2. The value of such merchandise. (T. D. 385; July 23, 1901.)

Bills of lading—Stamp tax. (See also Decision 13.)

Bills of lading or receipts from transportation companies may include more than one shipment therein, provided that a stamp or stamps amounting in value to 1 cent for each shipment shall be affixed thereto and canceled. (T. D. 20194; October 13, 1898.)

In the case of Fairbanks *v.* United States (181 U. S. 283) the Supreme Court of the United States held the 10-cent stamp tax on foreign bills of lading to be unconstitutional; and the Attorney-General holds that "a bill of lading which is in part domestic, given for transportation within the United States as well as for export, may be taxed on the domestic product," adding his opinion that "all bills of lading for goods transported by rail from place to place within the United States ought to have a 1-cent stamp attached, regardless of the ultimate destination of the goods." (T. D. 524; May 17, 1902.)

Carriers are not required by law to issue duplicates of domestic bills of lading, but if they do issue them they must stamp them with a 1-cent stamp. (T. D. 21645; October 7, 1899.)

If a local expressman accepts a package for delivery to a railroad, steamship, or other express company within the limits of the city in which said local expressman has his office, no receipt is required to be issued by said local expressman, but the railroad, steamship, or express company receiving the package from the local expressman must issue a receipt or bill of lading and affix a 1-cent stamp thereto. (T. D. 21692; October 24, 1899.)

Memorandum receipts for freight, afterwards exchanged for bills of lading, must be stamped when issued. (T. D. 21688; October 21, 1899.)

No obligation is imposed on transportation companies to issue export bills of lading, but when such bills are issued in duplicate, one of them, as the original, must be stamped at the rate of 10 cents. (T. D. 21169 and 21496; May 18 and August 12, 1899.)

Opinion of the Attorney-General on the question of the taxability of export bills of lading, or receipts, issued for goods shipped from the United States to Canada or Mexico by rail. Such instruments taxable at the rate of 1 cent instead of 10 cents, as heretofore. (T. D. 6; January 5, 1900.)

Where the shipper of goods has issued to him a bill of lading on which he pays the charges for the storage and also the charges for transportation of the goods, but allows the goods to remain in the storage house an indefinite length of time before shipment, said bill of lading will be subject to taxation as a warehouse receipt. (T. D. 20914; March 24, 1899.)

The Attorney-General, for guidance of all officers of the Internal-Revenue Service, promulgated, August 27, 1898, an opinion holding that where an express company receives money for transportation it is regarded as "goods" under Schedule A of the war-revenue act of June 13, 1898, and a bill of lading must be issued therefor and a stamp affixed. (T. D. 19970; August 27, 1898.)

The Attorney-General, for the information and guidance of all officers of the Internal-Revenue Service, promulgated an opinion, August 26, 1898, holding

Bills of lading—Stamp tax—Continued.

that receipts, bills of lading, or manifests issued by express companies in cases of shipment of money and securities of the United States Government under contract for transportation of same are subject to stamp tax under act of 1898. (T. D. 19996; August 31, 1898.)

The Attorney-General holds that the law which makes it the duty of the carrier to issue a bill of lading or a receipt to a person from whom any goods are accepted for transportation, and to stamp the same, does not apply to baggage received by railroad companies and carried upon the same train with the owner, whether such baggage be the quantity allowed ordinarily by the rules of the railroad company or is in excess of such amount. (T. D. 20169; October 12, 1898.)

When tax is paid on general bundle of newspapers, each package in the general bundle which is taken therefrom and delivered at intermediate points does not require a stamp. (T. D. 19846; August 9, 1898.)

A 10-cent stamp must be affixed to bills of lading issued for goods exported to foreign countries, with certain exceptions as to Mexico and Canada. The constitutionality of this provision is to be decided by the United States Supreme Court. (T. D. 71; March 15, 1900.)

Exportation of articles in bond (Schedule B) must be billed direct from manufactory to consignee at foreign port. Articles billed (not sold) to an agent must be recased and exported or exported without change by the agent within ninety days from date of removal for export, the agent to secure duplicate bills of lading in the name of the principal and forward same to him. (T. D. 59; March 6, 1900.)

All copies of instruments issued by carriers to consignors are held to be subject to stamp tax, as duplicates. (T. D. 78; March 20, 1900.)

Carriers who accept merchandise for transportation are required to furnish the shipper a stamped bill of lading or receipt therefor. If they fail to do this, they incur criminal liability; but if they refuse transportation for goods, except on condition that the shipper purchase the stamp or stamps in addition to the customary charge for transportation, the war-revenue law provides no remedy, and the aggrieved parties must look to either the common or the statute law of the State defining the obligations of common carriers. (T. D. 19803; August 1, 1898.)

Common carriers shall issue bills of lading, manifest, or other evidence of receipt and forwarding. "Shipment" defined. On a through bill of lading it is one shipment, though several modes of conveyance are employed. Every separate shipment requires evidence that it has been made, and to the evidence the stamp is affixed. (T. D. 19829; August 4, 1898.)

Duplicates and triplicates required by law, or regulations pursuant to law, taxable at 10 cents each—duplicates made by carrier, for his own convenience, held to be copies and not liable to stamp tax. (T. D. 19734; July 19, 1898.)

Bills of lading classified.

1. Stamped bills of lading are not required by the law to be issued by express and freight companies to individual persons, firms, or local companies for the delivery of packages, parcels, bundles, railway baggage and the like, solely on call and at special request, in various localities, but within city limits, adjacent to their own place of business.
2. Stamp tax is imposed only upon transactions of express business conducted upon regular routes and at designated times, upon regular trips, and as a business of transportation from one point or place in the country to another point or place over regular routes and through lines of traffic; and the tax is imposed upon the shipment.

Bills of lading classified—Continued.

3. If goods are accepted for through transportation by the one who takes them from the shipper or consignor and are carried over his own line only part way, being delivered to an express or transportation company for further transmission, the receipt by the company to whom he delivers the goods for further carriage would not be subject to stamp duties, it being only in acknowledgment of receipt of goods from the company which undertakes through transmission, and not a receipt to the shipper or consignor. (T. D. 19965; August 25, 1898.)

Regulations set forth in Circular No. 48, Internal Revenue No. 562, as to bills of lading for articles exported free of tax under section 22, act of June 13, 1898. (T. D. 101; April 18, 1900.)

The Attorney-General, in opinion dated January 2, 1900, holds that export bills of lading or receipts issued for goods shipped from the United States to Canada or to Mexico by rail require a 1-cent stamp, and not a 10-cent stamp, as theretofore required under Schedule A, war-revenue law. (T. D. 6; January 5, 1900.)

The regulations governing the exportation of proprietary articles in bond (Series 7, No. 24, Supplement No. 1, March 10, 1899) require the manufacturer to file with the collector of the district duplicate bills of lading covering the transportation of the articles to a port or place outside the jurisdiction of the United States, and describing the articles by marks and serial numbers. (T. D. 86; March 31, 1900.)

(See also Decisions 19571, p. 18; 19604, p. 251.)

Billiards, etc. (See also Decisions, 19610, 19745, 20313.)

Billiard room—"Open to the public."

A social club admitting to its privileges its own members and their invited guests only is not required to pay a special tax as the proprietor of a billiard room, under paragraph 9, section 2, act of June 13, 1898, inasmuch as the special tax imposed upon proprietors of bowling alleys and billiard rooms expressly relates to a building or place "open to the public." (T. D. 19743; July 21, 1898.)

Billiard and pool tables—Special tax.

A bagatelle table, being neither a billiard table nor a pool table within the meaning of the ninth paragraph of section 2, act of June 13, 1898, is not liable to special tax. (T. D. 20122; September 30, 1898.)

A tivoli table, which is materially different from a billiard or pool table, even though the ball used thereon is propelled by a cue, is not subject to special tax under the ninth paragraph of section 2 of the act of June 13, 1898. (T. D. 20126; October 4, 1898.)

In reports now for assessment against proprietors of tivoli peg pool tables under ruling 259, the 50 per cent penalty should be omitted, and no report thereon should be made for former years. (T. D. 284; February 15, 1901.)

Proprietors of safety lynn tables are held to be liable to special tax, as proprietors of pool tables. (T. D. 173; July 6, 1900.)

Proprietors of any tables on which games of pool are played, even if these pool games differ in some respects from the ordinary games of pool, must be required to pay special tax thereon. (T. D. 123; August 28, 1900.)

Special tax is required to be paid for the tables called the Klondike, the Stevens, the Manhattan, the safety lynn, and the tivoli peg pool tables, the games played thereon being recognized by billiard players as among the various kinds of pool games. (T. D. 259; December 21, 1900.)

Billiard and pool tables—Special tax—Continued.

Special tax is not required to be paid for any tables on which games are played unless they are billiard or pool tables, as contemplated by paragraph 9 of section 2 of the war-revenue act. (T. D. 20505; January 6, 1899.)

The Italian game called "boccie," not being among the games mentioned in the ninth paragraph of section 2, act of June 13, 1898, special tax is not required to be paid therefor under that paragraph. (T. D. 20784; March 1, 1899.)

The law imposing special tax on proprietors of billiard and pool tables is continued in force by the act approved March 2, 1901. (T. D. 301; March 18, 1901.)

The proprietor of the so-called "twentieth century pool table," which is "open to the public with or without price," is required to pay special tax. (T. D. 279; February 13, 1901.)

Where sworn return has been made and special-tax stamps have been issued for bowling alleys only, and thereafter the proprietor discontinues the use of the bowling alleys and substitutes pool tables for them, these special-tax stamps can not be made to answer for such tables. (T. D. 231; October 12, 1900.)

Bills of lading—Transportation.

Bills of lading issued by a carrier for transportation of goods to a foreign country require a 1-cent stamp to cover the domestic transportation, and the same rule governs in the case of bills of lading issued for goods shipped by railroad from places in the United States to places in Canada or Mexico. (See Attorney-General's Opinion, dated May 15, 1902.) (T. D. 524; May 17, 1902.)

In refunding sums paid for documentary stamps used on export bills of lading it does not seem to be practicable as a rule to allow claims except from persons who actually purchased and affixed the stamps to such instruments. If in any case the claim is made in the name of any person or corporation other than the one who purchased and affixed the stamps, such claim must be accompanied by a waiver from the person who or corporation which purchased and affixed the stamps, of any rights he or it may have to a refund on account of the stamps used. (T. D. 577; September 5, 1902.)

The Attorney-General, in an opinion, promulgated for information and guidance of internal-revenue officers, held, on October 21, 1898, that express matter carried for a railroad company free, in pursuance of a contract with the express company, is exempt from the stamp tax imposed by the act of June 13, 1898. (T. D. 20240; October 25, 1898.)

Bills of lading—Export tax.

Rehearing asked for in the United States Supreme Court in case of Fairbanks *v.* The United States, wherein the export tax on bills of lading was declared unconstitutional. Claims for refunding of tax may be filed, in order to save the bar prescribed by the statutes of limitation, but will not be considered until after the rehearing. (T. D. 355; June 5, 1901.)

Stamp tax on export bills of lading declared April 15, 1901, to be unconstitutional by the United States Supreme Court, and stamps no longer required on such instruments. (T. D. 328; April 19, 1901.)

The United States Supreme Court, having refused a rehearing in the case of Fairbanks *v.* The United States, held that claims for refunding export tax should be accompanied by the bills of lading with the stamps affixed thereto, but in cases where the bills of lading can not be obtained the duplicate bills of lading should be presented to the collector for his examination and a statement made in the claim showing why the stamps can not be procured. Where neither the bills of lading nor the duplicates thereof can be submitted to the collector,

Bills of lading—Export tax—Continued.

the books of the claimant should be submitted to the collector in order that he may be able to verify the claim. It must be shown that the claimant paid for the stamps and whether the full face value was paid. (T. D. 452; December 27, 1901.)

Brokers' orders—Stamp tax.

A commercial broker:

If each of a broker's orders is, in fact, completed on a board of trade as "a bona fide transaction," he is simply a commercial broker, and required to pay special tax accordingly and not to pay the special tax contemplated in Schedule A, act March 2, 1901. (T. D. 331; April 22, 1901.)

Orders when taken must be stamped:

A person conducting a "bucket shop," when taking an order from a customer, is required to pay stamp tax on the order, and commission merchant who receives the order must pay stamp tax on his own memorandum, or agreement, in filling the order. The memorandum of the transaction is simply a convenient means of identifying it and of ascertaining the amount of tax due. (T. D. 345; May 17, 1901.)

The rates of taxation imposed on orders, whether drawn in the United States or in a foreign land, for the payment of money take effect on and after July 1, 1901. (T. D. 323; April 11, 1901.)

Transactions under section 8, act of March 2, 1901:

Every person engaged in the transactions described in the third paragraph of section 8 of the act of March 2, 1901, is (although all the orders received from his customers upon margins deposited by them are transmitted to another bucket-shop broker elsewhere) required to file with the collector the "notice in writing under oath" as a broker of the second class himself, and is required to deliver to each of his customers in the transaction, "at the time of making the same, a written memorandum * * * to which the proper stamp shall be affixed before delivery." (T. D. 329; April 20, 1901.)

Blanks, improper use.

The furnishing of Government blanks for private use, or the use of such blanks for private purposes, is held to be unlawful. (T. D. 513; April 29, 1902.)

Blending wines—Special tax.

Manufacturers of wine may mix or blend wines of any name or description, if the result of such mixing or blending is wine of a superior quality or flavor, as recognized by wine manufacturers in general and the wine trade. They are not required to pay special tax therefor as rectifiers, even when the blending is with fortified sweet wines, unless it be shown that the resulting product is not a genuine wine as known to legitimate wine manufacturers, but is a spurious, imitation, or compound liquor. (T. D. 419; May 13, 1902.)

The blending of wines for the purpose of producing wine of an improved flavor and quality does not produce a spurious, imitation, or compound liquor within contemplation of the third paragraph of section 3244, Revised Statutes, and the special tax of a rectifier is not required to be paid on account of such blending. But the blending of fortified sweet wine with a simply fermented wine, or with unfermented grape juice, results in the production of a compound liquor, and every person making such compound for sale involves himself in liability as a rectifier. (T. D. 486; March 14, 1902.)

Blackberry wine—Special tax.

A manufacturer of blackberry wine can not lawfully sell it without paying special tax under the internal-revenue laws, unless he shows that the wine

Blackberry wine—Special tax—Continued.

was made by him from blackberries of his own growing, or from blackberries gathered wild by himself or by persons in his employ. The exemption granted by section 3246, Revised Statutes, to manufacturers of wine, does not apply to manufacturers of wine from berries bought of others. (T. D. 717; November 14, 1903.)

Bonds.

Bonds of distillers:

A collector should require compliance with State law in regard to married women tendering bonds as distillers. Before a married woman can execute a bond which can be enforced "she must become a 'free trader' by a written instrument signed by herself and husband, showing that she is authorized to conduct business in her own name, and the execution of this instrument must be proved before the clerk of the court of the county in which she resides, and be registered in the office of the register of deeds." (T. D. 755; February 29, 1904.)

Bonds of manufacturers of oleomargarine:

Heretofore the oleomargarine manufacturers' bond and the process or renovated-butter manufacturers' bond have been annual bonds, and were required to be reexecuted on or before commencing business each fiscal year. The forms have been revised, and are now made continuing bonds, and collectors are requested not to use the old ones but to use the revised forms, namely, in the case of oleomargarine manufacturers, Form 214, revised August, 1903, and in the case of renovated butter manufacturers, Form 508, which is now being revised and will be ready for use by the end of the present fiscal year. (T. D. 797; June 6, 1904.)

Collector's vigilance:

Necessity for increased vigilance on the part of collectors to avoid the taking of worthless bonds. Collectors are authorized to withhold approval from doubtful bonds when presented. (T. D. 816; August 23, 1904.)

Obligors' export bonds:

The act of Congress approved April 28, 1904, provides for the cancellation of bonds given to the United States upon the exportation to the Philippine Islands of articles subject to internal-revenue tax, or with benefit of drawback, as if given for and upon a shipment to a foreign country. (T. D. 789; May 17, 1904.)

Bond of collector—Suit:

Decision of the United States circuit court of appeals in an action on the official bond of Ambrose W. Lyman, collector, to recover the sum of $8,232.93 found due the United States on settling his accounts. The objection to transcript certified by the Acting Secretary of the Treasury not valid. The change in the regulations subsequent to the execution of the bond, putting deputy collectors in the classified civil service, did not relieve the sureties on the bond from their liability. (T. D. 653; April 15, 1903.)

Bonds of State officers:

The tax required on bonds before a person can enter upon the duties of a State is not a tax on the functions of a State government. The United States Supreme Court has held that the United States can not tax the salaries of State officers, but it has never decided that it can not tax their bonds. (T. D. 20510; January 10, 1899.)

The bonds of notaries public are subject to a tax of 50 cents each. (T. D. 20547; January 13, 1899.)

Bonds—Stamp tax. (See also Decisions 19605, 19742, 19800, 20226.)

Bonds of municipal officers are subject to stamp tax under the act of June 13, 1898. (T. D. 19686; July 13, 1898.)

Bonds of brewers, manufacturers of tobacco, manufacturers of cigars, distillers' annual, distillers' warehousing, transportation, and export bonds are required by the act of June 13, 1898, to be stamped with a 50-cent stamp under Schedule A, when individuals are security. When a guaranty company is surety the bond should be stamped, in addition, with a stamp denoting one-half of 1 cent on each dollar or fractional part thereof paid by the principal obligor on the bond as premium. Where these bonds are required by law or regulation of this office to be made in duplicate or triplicate, each must be stamped. (T. D. 19707; July 18, 1898.)

Distillers' transportation and warehousing bonds, and certain other bonds given under internal-revenue laws, are not required to be stamped on and after July 1, 1901. (T. D. 384; July 22, 1901.)

In cases of bonds issued by guaranty companies in Canada, guaranteeing the fidelity of employees of individuals or corporations in the United States, if the bond is executed or delivered in Canada, the United States laws will not apply, but if the bond be not valid until countersigned or delivered by the agent of the company in the United States, it should be stamped in accordance with the provisions of the act of June 13, 1898. (T. D. 19738; July 20, 1898.)

Renewals of bonds of fidelity companies issued prior to but not taking effect until July 1, 1898, require to be stamped, notwithstanding the fact that they were dated and delivered prior to that date. (T. D. 19845; August 9, 1898.)

The law does not provide for the transfer or assignment of bonds, but only for the issuance of these instruments; and it is held that whenever a corporation issues a bond and there accrues to the corporation a benefit or consideration for the same, it is subject to taxation. (T. D. 20156; October 6, 1898.)

Warehousing bonds are subject to stamp tax under the tenth subdivision of Schedule A of the act of June 13, 1898. (T. D. 19609; June 13, 1898.)

Bonds, tax:

Congress, in using practically the exact language of the act of July 1, 1862, in imposing a stamp tax on bonds in the act of March 2, 1901, must be presumed to have acted with full knowledge of the executive construction placed upon such language in the former act. As showing that the executive construction given to this part of the act of July 1, 1862, was in harmony with the intention of Congress, the act of June 30, 1864, which reenacted almost all the provisions of the act of July 1, 1862, with considerable enlargement as to the subjects and rates of taxation, in reenacting the provision imposing stamp taxes on bonds, divided it into two clauses, so that the bonds of indemnity formed one item and bonds for the due performance of the duties of an office formed another item, the language used being almost the same, and in both cases the rate of tax was increased. (T. D. 394; August 2, 1901.)

Bonds of distillers, brewers, and manufacturers:

Bonds, delivered on and after July 1, 1901, require no stamps in cases of distillers, brewers, manufacturers of tobacco, snuff, and cigars, or manufacturers of other taxable articles, and peddlers of tobacco; bonds of producers of wine for brandy used in the fortification of wine; all bonds for transportation and exportation of distilled spirits, or other taxable articles; bonds for withdrawal of alcohol for scientific purposes, and for withdrawal of distilled spirits by manufacturers of cordials, etc.; bonds for establishment of warehouses where certain articles are to be manufactured for export, and bonds for establishment

Bonds—Stamp tax—Continued.

Bonds of distillers, brewers, and manufacturers—Continued.

of special and general bonded warehouses. The official bonds of all internal-revenue officers, including deputy collectors, require a 50-cent stamp. (T. D. 396; August 6, 1901.)

The bonds of administrators and executors require a 50-cent stamp, when delivered on and after July 1, 1901. (T. D. 377; July 9, 1901.)

The bonds of administrators and executors become liable to stamp tax under the second clause of paragraph 7, Schedule A, war-revenue law, as amended by the act of March 2, 1901, because such bonds are for the due performance of the duties of an office or position and to account for money received by virtue thereof, and because the exemption of such bonds was omitted in the amendment of the war-revenue act. No authority can be found classifying administrators and executors as State officers. (T. D. 414; September 27, 1901.)

Official bonds of State, county, and municipal officers are exempt from stamp tax. (T. D. 304; March 21, 1901.)

Bonds of administrators, executors, guardians, and receivers:

Construing paragraph 7 of Schedule A, act of June 13, 1898, as amended by the act of March 2, 1901, it is held that the bonds of administrators, executors, guardians, receivers, and of other fiduciaries, appointed by State courts, become liable to tax under clause 2 of this paragraph, because such bonds are for the due performance of the duties of an office or position, such as accounting for money received by virtue thereof, and because the exemption that was made in Schedule A of the war-revenue act of bonds required in legal proceedings was omitted in the act as amended. (T. D. 432; November 7, 1901.)

Ruling as to executors, administrators, guardians, and receivers:

Although the opposite view was given in the early circulars of the Bureau, it is no longer the ruling of the Office that bonds made by executors, administrators, guardians, and receivers, appointed by the courts, in pursuance of legal proceedings, are taxable under Schedule A, war-revenue law. This ruling is based upon an opinion of the Attorney-General. (See Commissioner's Report, 1898, p. 113.) (T. D. 20756; March 1, 1899.)

The bonds of contractors for public works are required to be taxed, under Schedule A, act of June 13, 1898, as amended by act of March 2, 1901. (T. D. 356; June 5, 1901.)

Bonds of notaries, etc.:

The bonds of notaries public and of other State officers, made as a condition to the exercise of their official duties, are declared by the United States circuit court of appeals, sixth circuit, southern district of Ohio, to be exempt from stamp tax under Schedule A, act of June 13, 1898, said bonds being held to be "required in legal proceedings" as a prerequisite to the exercise of an official function created by the State. See decision of court in the case of Bernard Bettman, Collector, *v.* Walter W. Warwick, rendered March 5, 1901. (T. D. 314; March 28, 1901.)

The Attorney-General, in opinion delivered February 25, 1899, holds that bonds given by private individuals, secured by mortgages, are taxable as bonds of any description not otherwise provided for, and not as promissory notes. (T. D. 20788; March 2, 1899.)

Bonds of private persons:

A bond executed by a private person, having a mortgage as security, is taxable at the rate of 50 cents; there is, however, no tax accruing on a mortgage, if the sum secured does not exceed $1,000. Where a mortgage and bond are

Bonds—Stamp tax—Continued.

Bonds of private persons—Continued.

given by a private person for a sum not exceeding $1,500, the greater tax will accrue on the bond and the same should be stamped. (T. D. 20796; March 7, 1899.)

Bonds given under section 3297, Revised Statutes, by officers of State institutions, for alcohol to be used for scientific purposes, are not subject to stamp tax under the act of June 13, 1898. (T. D. 20876; March 16, 1899.)

Treasury decision 19707, July 18, 1898, is modified by opinion of the Attorney General, who holds that bonds of brewers, manufacturers of tobacco, manufacturers of cigars, distillers' annual, distillers' warehousing, transportation, and export bonds, are required to be stamped under the provisions of the act of June 13, 1898, with a 50-cent stamp, and when a guaranty company is surety an additional stamp is required denoting one-half of 1 per cent on the premium charged. Where these bonds are required by law or regulation of this office to be made in duplicate or triplicate, only the original is required to be stamped. (T. D. 21312; June 21, 1899.)

Bonds under act of March 2, 1901:

The bonds of administrators and executors, which were formerly held to be exempt as bonds required in legal proceedings, are required to be stamped on and after July 1, 1901, in consequence of the omission of the exemption heretofore accorded to such bonds, in the war-revenue law as amended by the act of March 2, 1901; and, likewise, the bonds of guardians, receivers, or trustees, appointed by court, are taxable on and after July 1, 1901. (T. D. 378; July 10, 1901.)

Guaranty bonds:

Commissioner's ruling August 18, 1898, to the effect that a guaranty, accompanying a proposal blank, does not require a stamp is reversed by ruling dated June 20, 1899, to the effect that a guaranty proposal is, in meaning and effect, a bond and taxable as such at the rate of 50 cents and an additional tax of one-half of 1 per cent on premium charged, if a fidelity, guaranty, or surety company becomes guarantor or surety on such instrument. (T. D. 21609; September 18, 1899.)

Guaranty companies as sureties:

Where fidelity or guaranty companies become sureties on bonds, a tax is due and payable whenever the premiums are paid. When a premium is paid subsequent to the one on the first issue of a continuing bond, a receipt must be issued by the company, a stamp put thereon, and the receipt filed with original bond. A tax stamp of 50 cents accrues on each renewal of a bond or agreement, in addition to the stamp tax on premiums. (T. D. 21666; October 14, 1899.)

Showing the relationship to the law of those engaged in the business of fidelity and guaranty insurance, and the tax accruing on the instruments evidencing said insuranceship, and the renewals of said instruments, and the tax accruing when a bond of indemnity is given by a principal and guaranteed by a surety company, and on the renewals of the same. (T. D. 15; January 11, 1900.)

Under the laws of the State of Illinois and the ordinances of the city of Chicago, it is necessary for a party making application for license as saloon keeper to file a bond with the city collector. The case of United States *v.* Ambrosini involves the question as to whether the Government can require such bonds to be stamped under the war-revenue act of 1898. Decision in favor of the Government. (T. D. 40; February 10, 1900.)

Bonds—Stamp tax—Continued.

Bond for saloon keeper's license:

Where the question arises as to whether the Government can require bonds given by a party making application for license as a saloon keeper to be stamped, it is held that all such bonds shall be stamped by the principal at the rate of 50 cents each, and if, in any case, the security be given by a fidelity or guaranty company, additional stamps are required at the rate of one-half of 1 per cent on each dollar of premium. (T. D. 72; March 15, 1900.)

Administrators' and executors' bonds:

Sections 14 and 15, act of June 13, 1898, declare instruments invalid for the lack of a stamp, and also make it unlawful for a recording officer to record an instrument to which a proper stamp has not been affixed and canceled, and a case is pending in the United States circuit court of Rhode Island involving the question whether the bonds of administrators and executors are liable to stamp tax. (T. D. 481; March 8, 1902.)

The giving of an additional bond by storekeepers, gaugers, and storekeeper-gaugers does not modify or release the original bond given at the time of qualification. Bonds may not be renewed at the will of the principal or the surety, but only by the direction of the Commissioner. (T. D. 548; July 11, 1902.)

Under the laws of the State of Illinois and the ordinances of the city of Chicago, it is necessary for a party making application for license as saloon keeper to file a bond with the city collector. The case of Peter Ambrosini, plaintiff in error, *v.* United States involved the question as to whether the Government can require such bonds to be stamped under the war-revenue act of 1898. The Supreme Court decided they are not taxable within the statute. (T. D. 593; October 25, 1902.)

Bonds of internal-revenue officers:

By the terms of Schedule A, act of June 13, 1898, it is provided that all bonds given by officers of internal revenue to the United States for the faithful discharge of duty, as disbursing agents, for indemnifying the Government, or for any other purpose whatsoever, must have attached thereto a 50-cent documentary stamp. This stamp will be affixed by the principal, and canceled by writing or imprinting thereon his initials and the date when affixed. (T. D. 19690; July 13, 1898.)

Bonds, cancellation.

No legal provision has been made for the cancellation of the bonds of brewers and manufacturers of tobacco and cigars who have gone out of business. The bonds are to be kept on file in the collector's office, and should any default be hereafter found they are held liable. (T. D. 648; April 4, 1903.)

The Commissioner holds that, under the Dockery Act (28 Stats., 807), he must cause all bonds given by storekeeper-gaugers to be renewed every four years, and as much oftener as he may deem a renewal necessary; and that when a new bond is required and filed by a storekeeper-gauger and accepted the liability of sureties on the former bond as to the future acts of the principal ceases. (T. D. 697; September 15, 1903.)

Bonded spirits.

Leakage allowance and regauging:

Under the provisions of section 50, act of August 28, 1894, and the amendatory act of January 13, 1903, applications for regauging spirits in bonded warehouses and for leakage allowances will in no case be approved unless filed within the time limited by the statute, at least fifteen days before the expira-

Bonded spirits—Continued.

Leakage allowed and regauging—Continued.

tion of the seven years from the date of the original gauge of the oldest spirits produced during a given month, or upon special request of the distiller. (T. D. 687; July 30, 1903.)

Bonded distilled spirits' account:

Instructions are given in internal-revenue circular 659 to the effect that storekeepers' returns on Forms 87 for the month of July, 1904, and subsequent months, will not be recorded in Book 15, but will be filed in a special binder or pamphlet cover for Forms 87 (sample herewith), one cover being devoted to all the reports on Form 87 for a given month, arranged according to the number of distillery warehouses from the lowest to the highest, from which reports all of the details, the totals of which appear in Column A or Short Entry A, on lines 7, 10, 10½, 11, 12, 13 (A), 13½, 17 (A), 20 (A), 24 (A), 26 (A), and 33 of page 1 of the bonded account, Form 94*a*, part 1, will be directly transcribed. (T. D. 793; May 31, 1904.)

Bonds of administrators and executors.

Assessments of tax are not to be made on bonds of administrators and executors in cases where the stamps can now be affixed. A case is pending in the United States circuit court in the district of Rhode Island, involving the question whether bonds, on which the money has been paid for the tax, require stamps. (T. D. 481; March 8, 1902.)

Cigar manufacturer's bond.

Sureties on cigar manufacturer's old bond are released upon date of execution and approval of new bond, and are chargeable with delinquencies occurring only to the date of approval of new bond, when responsibility on the latter commences. (T. D. 740; January 9, 1904.)

Continuing manufacturer's bond.

A bond given for continuance of the business of manufacturing cigars by a minor son of a deceased cigar manufacturer may be accepted by a collector if the fact of the minority of the principal is clearly stated in the body of the bond and the sureties are good and sufficient. When an administrator of the estate of the deceased cigar manufacturer is appointed a new bond is required. (T. D. 792; May 26, 1904.)

Brewers' bonds.

A second bond filed by a brewer during the four-year period is merely cumulative and does not release the first bond. (T. D. 834; October 15, 1904.)

Consent of sureties to removal.

In consenting by sureties to the removal of a cigar or tobacco manufacturer the signing of Form 542 and its proper execution by the sureties considered sufficient.—The signature of the principal, as required by Regulations No. 8 (p. 63), is not deemed necessary. (T. D. 820; August 30, 1904.)

Bonded warehouse.

Supplemental regulations:

Department circular No. 104 sets forth supplemental regulations concerning withdrawal of distilled spirits from bonded warehouse for use of the United States, free of tax, under provisions of section 3464, Revised Statutes. (T. D. 848; December 23, 1904.)

Boron preservatives.

Where boron preservatives, or similar preservatives, are used in butter for the purpose of preservation only, and the extremely small quantity of preservative used indicating beyond question that fact, its sole use being for the pur-

Boron preservatives—Continued.

pose and with the effect of preventing or postponing usual and natural changes in butter, it is held that the product will not be liable or subject to tax as adulterated butter. (T. D. 580; September 16, 1902.)

Bottles refilled with distilled spirits.

Collectors are instructed by circular No. 647 that, while under section 6, act of March 3, 1897, the reuse of a bottle for containing spirits which had once been filled and stamped without destroying the stamp previously affixed may not result in fraud upon the Government, it involves a violation of law and enables the offender to impose upon the public. Such an offender should be reported for prosecution. (T. D. 696; September 19, 1903.)

Bottling warehouses.

On further examination of the bottling act of March 3, 1897, it is held that the use of the same bottling warehouse by different distillers having spirits on the same distillery premises would not be contrary to the purpose of said act; and that such use may be permitted, in the discretion of the Commissioner of Internal Revenue, under such regulations as he, with the approval of the Secretary of the Treasury, may prescribe. (T. D. 531; June 4, 1902.)

Bottling warehouse for different distillers:

Treasury Decision 531, made June 4, 1902, as to the use of the same bottling warehouse by different distillers, is so modified as to read thus, viz: In case there has been a change or changes in the persons operating a distillery, and different distillers have spirits stored in different warehouses on the same distillery premises, each of such distillers who desire to bottle spirits of his own production may provide a warehouse of his own for that purpose; or if a bottling warehouse has already been set apart and approved for one of such distillers it may be used by either of the other distillers having spirits stored on the same distillery premises, upon obtaining and filing with the collector the written consent of the principals and sureties on the distillers' and warehousing bonds of the distiller having spirits stored in the warehouse of which the bottling warehouse forms a part, that such warehouse may be occupied and used by the applicant, naming him, for bottling spirits in bond. (T. D. 555; July 18, 1902.)

Recovery of spirits from empty packages:

The practice of placing hot water in packages after emptying spirits therefrom, and allowing it to remain long enough to recover at least a portion of the spirits which have been allowed as soakage, and upon which tax has not been paid, is condemned and prohibited. All officers of internal revenue are instructed to see that the order against it is enforced. (See Circular 662.) (T. D. 818; August 24, 1904.)

Bottling whisky in bond.

No spirits can be withdrawn for bottling under the bottling-in-bond act until the period during which a request for regauge of such spirits can be made has expired. Spirits bottled in bond may be reduced by addition of pure water only to not less than 100 per cent proof for domestic use, or to not less than 80 per cent proof for export purposes. (T. D. 796; June 4, 1904.)

Bowling alleys—Special tax. (See also Billiards, etc.)

A table called a "10-pin bowling alley," 12 or 16 feet long, 21 inches high, and 23 inches wide, on which bowls are thrown, when set up in any place and "open to the public with or without price," is held to be a bowling alley, for which special tax must be paid. (T. D. 261; January 2, 1901.)

Bowling alleys—Special tax—Continued.

Bowling alleys, used only one day in each year, upon the occasion of annual Sunday school picnics, the proceeds being applied to church and Sunday school purposes, are not "open to the public" within the meaning of the law, and are not subject to payment of a special tax. (T. D. 19890; August 13, 1898.)

Bowling alleys at a college, used exclusively by students and occasionally by some invited friends are not subject to special tax under section 2, act of June 13, 1898. (T. D. 20021; September 7, 1898.)

In every building or place where bowls are thrown each division or track is a separate alley, for which the special tax of $5 must be paid. (T. D. 21606; September 14, 1899.)

Separate special-tax stamp is required for each bowling alley, pool, or billiard table. One stamp can not be made to answer for several tables, even though they are contained in a single room and operated by only one person or firm. (T. D. 19610; June 30, 1898.)

Special-tax stamp, taken out by a person for a pool table, can not, upon his dismantling the pool table, be made to answer for a bowling alley. (T. D. 20313; November 1, 1898.)

The ninth paragraph of section 2 of the act of June 13, 1898, imposing special tax on proprietors of bowling alleys, requires the special tax to be paid for "each alley;" and it is held that where there are distinct and separate tracks on which separate games of bowling can be played at the same time each of these is a separate alley, for which the special tax of $5 must be paid. (T. D. 20263; October 28, 1898.)

Where a person who has taken out a special-tax stamp for a bowling-alley closes this alley and thereafter opens another to the public, the stamp may be transferred to the latter bowling alley under the provisions of section 3241, Revised Statutes, if it remains in his ownership and control. (T. D. 21495; August 11, 1899.)

Brandy, fruit—Assessment regulations.

Assessment and collection of tax—

Circular No. 44 (Int. Rev. No. 657) is issued to set forth certain regulations governing assessment and collection of tax on fruit brandy produced and not removed for fortification of pure sweet wine or deposit in special bonded warehouses under act of March 3, 1877, as extended by act of October 18, 1888. (T. D. 782; April 26, 1904.)

Time for assessing tax—

Referring to Internal Revenue Circular 657 and to section 2, act of March 3, 1877, as to the time therein prescribed for reporting the tax on brandy produced and remaining on distiller's premises, it is noted that the tax in such cases is not to be assessed during the month in which the spirits are produced, but on the list for the next succeeding month, which list would in ordinary cases be completed and returned to the collector some time during the following month, thereby giving the distiller from sixty to ninety days (according to the date of production) in which to tax pay his brandy. (T. D. 835; October 22, 1905.)

Branding packages.

Caution-notice labels and branding of cigars—

Caution-notice labels with the name of a dealer printed on the upper half of the label, the name of the manufacturer being omitted, are contrary to the regulations. Boxes not made from wood must be submitted to the Commissioner for approval, and all cigar boxes must bear the brand showing the number of the factory, district, and State, and the number of cigars contained therein in addition to the factory number, district, and State shown on the caution notice. (T. D. 794; May 31, 1904.)

Branding packages—Continued.

Packing, stamping, branding, and labeling small cigars and cigarettes—

Each statutory package of little cigars or cigarettes (10s, 20s, 50s, or 100s) must be stamped, branded, and labeled; provided, however, that such stamped packages may be packed in cartons containing 200, 250, or 500 small cigars or cigarettes with the factory brand and caution notice omitted from the inner packages and placed on the carton.—Cartons containing statutory packages fully stamped, branded, and labeled need not have the factory brand or caution notice placed thereon, the inner packages being complete in themselves.—Stamps must be so affixed to the packages that the contents can not be removed without breaking the stamp, and when stamps of the denominations 10s and 20s are not so affixed as to seal the package, the manufacturer will write or imprint thereon his registered number, district, and State, and the date of use, to include the month and year. (T. D. 825; September 6, 1904.)

Brewers' packages.

Instructions are given by the Commissioner to a collector of internal revenue with reference to the most satisfactory way of so curing defects in brewers' packages as to put them in legal condition, in cases where the packages contain more spigot holes than are allowed by law. (T. D. 751; February 16, 1904.)

Branding rectifiers' packages—

The ruling stated in Treasury decision 566, dated August 13, 1902, prohibiting the use of spiral brands on wholesale liquor dealers' packages of spirits, extended to rectifier's packages. (T. D. 721; November 24, 1903.)

Brewery receiver—Special tax.

A receiver, appointed by order of court to take charge of and continue the business of a brewery company that has paid the special tax, is not required to pay another special tax therefor, but may conduct the business under the special-tax stamp of such company. (T. D. 465; January 30, 1902.)

Brokers—Special tax. (See also Decisions, tax on brokers' contracts, Nos. 116–191.)

A person who makes it his business to buy securities, even for himself only, without selling them, is a broker in contemplation of the statute, and required to pay special tax accordingly. (T. D. 156; June 13, 1900.)

A broker's special tax is not required to be paid for the purchase nor for the sale of tax titles. (T. D. 145; June 4, 1900.)

A single instance of the purchase or sale of securities (or occasional instances of such transactions) is not sufficient to constitute the business of a broker, in contemplation of the statute, and special tax is not required to be paid therefor.—Public warrants, even though transferred before payment, do not require a stamp under the internal-revenue laws. (T. D. 70; March 14, 1900.)

A person who is engaged in the business of selling either domestic or foreign exchange to his customers is required to pay special tax as a broker. (T. D. 20593; January 19, 1899.)

Brokerage is not the business of the express companies; they are carriers, and the issuing of money orders and travelers' checks is a mere incident to the business of carriers, the companies for a consideration issuing their own orders, upon themselves, for the payment of money upon presentation to their authorized agents. They are not liable on this account for special tax as brokers under the second paragraph of section 2, act of June 13, 1898. (T. D. 128; May 14, 1900.)

Mileage books are not "securities" within the meaning of paragraph 2, section 2, act of June 13, 1898, defining brokers, and special tax of a broker is not required to be paid for their purchase and sale. (T. D. 112; April 25, 1900.)

Brokers—Special tax—Continued.

Warehousemen who sell leaf tobacco on commission are required to pay special tax as leaf-tobacco dealers; and if they neither acquire possession of, nor right or title to, leaf tobacco which they sell on commission as agents for others, they must also pay special tax as commercial brokers. (T. D. 20603; January 23, 1899.)

Where an officer of a bank holds a membership in a stock exchange as agent for his bank, and the business done by him on the stock board is the bank's business, neither he nor his bank is required to pay special tax therefor as a broker, the bank being exempt therefrom by the express provision of the statute defining brokers. (T. D. 12; January 8, 1900.)

Persons who receive money from those who wish to send remittances to foreign countries and procure for them bills of exchange, if they receive a commission on the exchange thus purchased, are brokers under the second paragraph of section 2 of the war-revenue act and must pay special tax accordingly. (T. D. 20594; January 19, 1899.)

The purchase and sale of rare coins is not held to be the business of a broker as defined by the statute. (T. D. 150; June 6, 1900.)

Broker's branch office equipments:

A person whose business it is, upon orders from his customers, on commission, to negotiate purchases or sales of wheat or other merchandise and purchases or sales of stocks, bonds, etc., even though he makes such purchases of sales in his own name only, not disclosing the names of his customers, is required to pay special taxes as a broker and commercial broker. (T. D. 174; July 6, 1900.)

Persons whose business it is to buy or sell grain (or other merchandise) on commission on orders received from customers are commercial brokers and required to pay special tax as such, even when they negotiate such purchases or sales in their own names only (the grain or merchandise not being received into their actual possession). (T. D. 180; July 18, 1900.)

(See also Commercial brokers; and Decisions 19701, 19742.)

Special tax is required to be paid for every broker's branch office at which all equipments for business are kept, together with memorandum pads of transactions, ticker recording sales and purchases of stock exchange, and blackboard indicating value of stocks. (T. D. 20604; January 23, 1899.)

Broker defined:

In the general meaning of the word, the term "broker" implies a person acting for others in the buying and selling of commercial paper, stocks, etc., but the terms of paragraph 2, section 2, act of June 13, 1898, define a broker as every person whose business it is to negotiate purchases or sales of "stocks for themselves," as well as for others. Such a person is subject to special tax. (T. D. 20549; January 16, 1899.)

Delinquent tax sales:

The buying of real estate at delinquent tax sales is not the business of either a broker or a commercial broker as defined by the statute. (T. D. 20542; January 11, 1899.)

The business of loaning money on real estate, taking the note of the borrower and mortgagee, does not involve the lender in special-tax liability either as a banker or broker under the war-revenue act. (T. D. 50544; January 11, 1899.)

Mining stock brokers:

Mining stock brokers, doing a purely speculative business in mining stocks, are subject to the tax of $50; section 2, act of June 13, 1898. Mining companies are required to affix and cancel a 5-cent stamp to every certificate of stock

Brokers—Special tax—Continued.

Mining stock brokers—Continued.

originally issued on or after July 1, 1898, and every transfer of a certificate of stock must bear the requisite stamp required by Schedule A of said act. (T. D. 19562; June 23, 1898.)

Section 2, act of June 13, 1898:

Neither a mortgage for a less amount than $1,000, nor a deed for property of less actual value than $100, nor a receipt issued by a savings bank, but containing no words constituting an order for the payment of money, is liable to a special tax. But persons or firms engaged in buying and selling notes for themselves are liable as brokers for the special tax of $50, under paragraph 2, section 2, act of June 13, 1898. (T. D. 19755; June 23, 1898.)

Broker under war revenue tax:

A person who does not have a place of business where credits are opened by the deposit or collection of money or currency, subject to be paid or remitted upon draft, check, or order, or where stocks, bonds, bullion, bills of exchange, or promissory notes are received for discount or sale, is not subject to special tax as a banker, unless the money which he lends is loaned on the collateral security of stocks, bonds, bullion, bills of exchange, or promissory notes. (See the decision of the Supreme Court in Selden *v.* The Equitable Trust Company, 94 U. S., 704.) (T. D. 19894; August 16, 1898.)

A broker's agent, having a place of business where he receives and transmits to his principal orders for the purchase or carrying of stock, and where he receives and disburses the money due customers, is required to pay special tax as a broker and take out and post up the requisite stamp. (T. D. 19881; August 10, 1898.)

A party is involved in liability as broker whose business it is to sell stocks and bonds for clients, also city scrip and county warrants on commission, or for a fee. (T. D. 20157; October 7, 1898.)

Certain "privileges" issued by a broker, in stock transactions, and designated, respectively, as "puts," "calls," and "spreads," are liable to stamp tax at date of issue, under paragraph 1, Schedule A, act of June 13, 1898. (T. D. 20093; September 24, 1898.)

1. Neither a real estate agent nor any person or firm is subject to special tax for simply buying or selling real estate on commission for either himself or others.
2. A man is a broker under the act of June 13, 1898, who negotiates purchases or sales of stocks, bonds, notes, etc., in the course of business, and this applies to real estate agents, insurance agents, attorneys, or any persons or firms who, in connection with their profession or occupation, make it a regular part of their business to negotiate purchases of stocks, bonds, notes, etc., either for themselves or others. (T. D. 19755; July 23, 1898.)

Persons whose practice it is to buy notes for themselves and for others (even though this is in addition to their regular business) are required to pay special tax as a broker. (T. D. 19757; July 25, 1898.)

Persons whose business it is to negotiate purchases or sales of stocks or other securities, and are also brokers in grain and produce, are required to pay special tax both as brokers and as commercial brokers. (T. D. 19870; August 9, 1898.)

The business of selling land on commission, taking applications for farm loans, and writing insurance is not the business of a broker as defined by the statute. Special tax is not required to be paid therefor. (T. D. 19872; August 10, 1898.)

The purchase of State, county, school, or district orders or warrants by any person does not subject him to special tax as a broker if this is not done by him to the extent of constituting it his business. (T. D. 19885; August 11, 1898.)

Broker under war revenue tax—Continued.

Tax payable for entire year:

A person who, in the month of July, engages in any business for which special tax is required to be paid, must pay the tax for the entire year, beginning July 1, and if thereafter he takes in a partner, the firm thus created must also pay special tax, reckoned from the first day of the month in which it began the business to the 1st day of July following, and take out a stamp in the firm name, without any rebate or allowance on account of the tax paid by the person in question for the business carried on by him individually prior to the creation of the firm. (T. D. 20160; October 10, 1898.)

Money orders by Italian brokers in New York and other American cities for transmission abroad are subject to tax under the act of June 13, 1898. (T. D. 20163; October 11, 1898.)

Tax applied to any "established place" of business:

Special tax upon sales of any product or merchandise, imposed by the act of June 13, 1898, applies, in addition to operations at all exchanges or boards of trade, under the comprehensive words "or other similar place," to operations at any established place where business interests meet to conduct such operations, without regard to location or designation, whether under the name of "bucket shop," or other name. (T. D. 20274; November 2, 1898.)

Branch offices of brokers:

A person who is engaged in the business of buying promissory notes for himself and clients, although this is only a branch of the business in which he is engaged, is required to pay special tax as a broker. (T. D. 20028; September 8, 1898.)

Special tax must be paid for every branch office established by a broker in the legitimate brokerage business, where the employee in charge of such branch office not only receives and transmits orders with the money to the main office, but also receives from the main office moneys for disbursement to customers, or keeps accounts with the customers at the branch office, or does other business with relation to the transactions of brokers at such branch office. Separate special tax must be paid and a separate stamp taken out for every "bucket shop," whether such office is called a branch office or a main office. (T. D. 20374; November 24, 1898.)

Broker's sales of stock:

A person who carries on the business of a broker, both in stocks and other securities, and in grain, merchandise, or produce, is required to pay the special tax of $50 as a broker and special tax of $20 as a commercial broker. Collectors should ascertain and report for assessment all such cases in their districts, where both special-tax stamps are not held by these brokers. (T. D. 20167; October 11, 1898.)

1. No tax accrues under the paragraph, Schedule A, headed "Contract," on the sales of stocks, inasmuch as such sales are otherwise provided for in the act of June 13, 1898.
2. Where Form B is used only as a notice of purchase or sale of stock, no other paper having been issued or stamped in connection with the transaction, and regardless of the class of brokers using the same, it is liable to stamp duty at the rate of 2 cents on each $100 of face value or fraction thereof as a memorandum of sale of stock.
3. When Form C is used only in stock transactions, irrespective of the class of brokers using the same, it is taxable at the rate of 2 cents for each hundred dollars of face value or fractional part thereof as an agreement for the future transfer of stock. (T. D. 20091; September 22, 1898.)

Broker under war revenue tax—Continued.

Broker's sales of stock—Continued.

Special-tax stamps must be taken out by persons who make a business of negotiating the purchase and the sale of life-insurance contracts, such persons being classed as brokers. (T. D. 20235; October 22, 1898.)

The business of negotiating loans, the borrowers paying a commission to the persons securing the loans, drawing papers, examining titles, etc., is not the business of a broker as defined by paragraph 2, section 2, of the act of June 13, 1898. (T. D. 20262; October 27, 1898.)

The indorsement of notes for discount at some bank is not sufficient to involve the indorser in special-tax liability within the definition of a broker as contained in paragraph 2, section 2, of the act of June 13, 1898. (T. D. 20269; October 31, 1898.)

While a mining syndicate, or other association, issuing certificates of stock in a company organized by it is not required to pay special tax as a broker therefor, a manager or other person employed by it to sell such certificates on commission is a broker within the meaning of the second paragraph of section 2 of the act of June 13, 1898, and is required to pay special tax accordingly. (T. D. 20637; January 26, 1899.)

Negotiating agents, as brokers:

A company or corporation, which merely disposes of its own stock and bonds for the purpose of obtaining money to conduct the business for which it was organized, is not required to pay special tax therefor as a broker under the second paragraph of section 2 of the war-revenue act. But if it employs an officer or agent, whose business it is to negotiate these sales for a commission or premium thereen, such person must pay special tax as a broker. (T. D. 20640; January 26, 1899.)

Receipts for money and letters of advice:

A broker's receipt for money from a customer, who retains the receipt while the broker forwards the money with a letter of advice as to the disposal thereof, is not liable to tax. If, however, the broker sends a letter of instruction or of advice as to the payment of money, unaccompanied by check, draft, or other order for the payment of money, said letter would be liable to a 2-cent stamp tax, which must be affixed thereto. If the broker deals directly with foreign correspondents, a letter of advice, if unaccompanied by a remittance, should bear stamps at the rate of 4 cents per $100, or fraction thereof. (T. D. 20650; January 31, 1899.)

Persons whose business it is, as agents for others, to negotiate sales of mortgages on commission are required to pay a special tax as brokers. (T. D. 20676; February 4, 1899.)

Steamship agents as brokers:

Negotiation of sales of exchange, including foreign drafts as well as domestic, is the business of a broker, as defined by the statute.—Express companies engaged in the business of selling exchange are required to pay special tax as brokers. (T. D. 20785; March 1, 1899.)

Opinion of the Attorney-General relative to taxation of instruments used by stockbrokers and known as "puts" and "calls." "Spreads" held to be taxable under same opinion. Modification of ruling 20093, rendered by the Commissioner's office September 24, 1898. (T. D. 21151; May 12, 1899.)

Steamship agents, who make it their business, or any material part thereof, to sell drafts or bills of exchange on commission, are required to pay special tax as brokers, under paragraph 2, act of June 13, 1898, requiring persons, "whose business it is" to negotiate sales of "exchange," to be regarded as brokers. (T. D. 20717; February 14, 1899.)

Broker under war revenue tax—Continued.

Bucket-shop brokerage:

A bucket shop is a place other than a board of trade or exchange where parties who agree to buy and sell stocks do not ordinarily contemplate either receiving or delivering certificates therefor by buyer or seller either at the time or in the future. Such transactions are taxable at the rate of 2-cent stamp for each $100 par value. Treasury ruling 20274 is revoked wherein it was held that a bucket shop, as ordinarily conducted, is a "similar place" to a board of trade or exchange. (T. D. 21279; June 16, 1899.)

A person must pay special tax as broker if he holds himself in readiness to make purchases and sales of securities mentioned in paragraph 2, section 2, of the war-revenue act, and is known to the public as engaged in such business, even though the amount of business done is small. (T. D. 20873; March 15, 1899.)

Agents of steamship companies (as well as other persons) who hold themselves in readiness to sell foreign exchange, and are so known to the public, are required to pay special tax as brokers. (T. D. 21075; April 28, 1899.)

An express company engaged in the business of buying or selling foreign money or bills of exchange is required to pay special tax as a broker. (T. D. 21709; October 31, 1899.)

Broker's special tax:

Broker's special tax is not required to be paid by a person because of the fact of his holding a seat in the stock exchange if he transacts no business as a broker, either directly or indirectly. (T. D. 19885; August 24, 1898.)

Loan and mortgage companies are not liable for special tax as brokers unless they engage in the sale of the securities on which they make loans. When they engage in such sales they become brokers, and are required to pay special tax accordingly. (T. D. 21620; September 22, 1899.)

No tax accrues on the closing of a stock transaction wherein the margin on stock is exhausted because of the market going against the speculator and there is no further agreement to either buy or sell with reference thereto. (T. D. 21707; October 27, 1899.)

Persons engaged in the business of buying fee bills of witnesses on which warrants are issued and paid are held to be engaged in the business of brokers under the second paragraph of section 2, act of June 13, 1898. (T. D. 21647; October 10, 1899.)

Railway agents who exchange foreign money for American money, and vice versa, merely in the transaction of the freight and passenger business of their company, do not thereby involve themselves in special-tax liability as brokers. (T. D. 21521; August 22, 1899.)

Steamship agents (as well as others) engaged in the sale of money orders that come under the head of "exchange," as this word is used in the second paragraph of section 2, act of June 13, 1898, are required to pay special tax as brokers. Modification of former ruling. (T. D. 20790; March 6, 1899.)

The special tax of a broker is not required to be paid for the receipt and transmission of money where there are neither purchases nor sales of any money orders, drafts, bills of exchange, or any other instruments constituting "exchange" in contemplation of the second paragraph of section 2, act of June 13, 1898. (T. D. 20919; March 25, 1899.)

Where a person was in the habit for many years of drawing sight drafts for small amounts on London, advising foreign bankers in New York, who, in turn, advise their London firm, it is held that such person is not liable for special tax under section 2, act of June 13, 1898. (T. D. 19937; August 23, 1898.)

Orders on brokers:

The sheriff who, as tax collector and treasurer of his county, takes up witness claims and applies them to the payment of the taxes of the witness or holder

Broker under war revenue tax—Continued.

Orders on brokers—Continued.

thereof is not required to pay special tax therefor as a broker. (T. D. 21813; November 28, 1899.)

Where a broker receives an order to buy or to sell stock for a customer and wires said order to his correspondent located in another city, the name of the customer being undisclosed, only one tax accrues, said tax being on the sale or the purchase made by the correspondent. When a customer asks his broker to close any transaction, a tax again accrues at the rate of 2 cents per $100, or fraction thereof, of the par value of the stock. (T. D. 21711; October 21, 1899.)

Where an officer of a bank holds a membership in a stock exchange as agent for his bank, and the business done by him on the stock board is the bank's business, neither he nor his bank is required to pay special tax therefor as a broker, the bank being exempt therefrom by the express provision of the statute defining brokers. (T. D. 12; January 8, 1900.)

Broker, class 2—Special tax.

Additional special tax:

The fact that the special-tax stamp of a regular broker under the second subdivision of section 2, act of March 2, 1901, is held by a person who is a member of a stock exchange does not relieve him from liability for additional special tax under the third subdivision of section 8 of that act, if, in addition to business conducted by him on the exchange, he makes it part of his business to engage in transactions such as are described in the third subdivision of section 8. (T. D. 320; April 3, 1901.)

The statute imposes a stamp duty on brokers' agreements to sell. "Calls" are agreements to sell and are taxable as such. (See decision of the United States Supreme Court in the case of Treat *v.* White.) (T. D. 338; May 4, 1901.)

"Broker, class 2," under act of 1901:

The special tax created by paragraph 3, act of March 2, 1901, will be known as "Broker, class 2." Under the law the class of brokers described in the act must pay the special tax, whether they have previously paid the special tax as brokers, or any other special tax, for the same period or not, and, from July 1, 1901, they must pay this tax as well as that of broker, the two taxes aggregating $100 per annum. (T. D. 292; March 7, 1901.)

Broker, class 2, defined:

"Brokers, class 2," under paragraph 3, Schedule A, includes every person, association, copartnership, or corporation who shall, in his or its own behalf, conduct what is commonly known as a "bucket shop," buying and selling grain, produce, stocks, bonds, petroleum, or other commodities without an intention on the part of either the seller to deliver or of the buyer to actually receive and pay for the same; and they must pay a special tax of $50, and, in addition the special brokers' tax of $50, making, together, a special tax of $100 per annum under this section. (T. D. 318; April 3, 1901.)

Loose sheets kept by persons engaged in transactions described in paragraph 3, section 8, act of March 2, 1901, will not answer in lieu of the book required by that paragraph of the statute. The statute does not require that this book shall be separate and distinct from the private business book of the broker. (T. D. 324; April 13, 1901.)

Conditions requiring stamp tax:

A dealer in "puts" and "calls" in stocks or grain, outside of an exchange, board of trade, or similar place, is liable to stamp tax as a broker, class 2. A memorandum of sale given by a broker not a member of any exchange, and

Broker, class 2—Special tax—Continued.

Conditions requiring stamp tax—Continued.

likewise the order executed by a member of an exchange, based upon said memorandum, must be stamped. The manager of a branch office of a member of a stock exchange is not liable to stamp tax. A broker, who is a member of and transacts all of his business on an exchange, or similar place, his business not consisting of the actual delivery of the certificates of stocks, or commodities dealt in, need not qualify as a broker, class No. 2. (T. D. 351; May 29, 1901.)

If not only payment of the special tax, but also the sworn return required by the third subdivision of section 8, act of March 2, 1901, to be made by every broker who comes within the definition contained therein, be made within the month of April, the 50 per cent penalty under section 3176, Revised Statutes, is not incurred. (T. D. 315; March 28, 1901.)

Notice in writing under oath:

Every person engaged in the transactions described in the third subdivision of section 8, act of March 2, 1901, is imperatively required by the statute to file with the collector the "notice in writing under oath" prescribed by the law. Where the broker takes orders from his customers with the printed or written statement "that the actual delivery of the stock is contemplated and understood," this fact will not of itself be accepted as conclusive on this point. If all the transactions are closed according to quotations of price, without being carried to any exchange, the business is that contemplated by this statute, and the additional special tax must be paid therefor, notwithstanding the printed or written statement of an understanding as to actual delivery. (T. D. 317; April 1, 1901.)

Collectors must not, in any case, issue stamps to brokers, class 2, from books of regular brokers' special stamps, but from books that are issued only on requisitions for stamps "brokers, class 2." (T. D. 298; March 15, 1901.)

Brokers' sales.

Sales of grain made in the offices of members of an exchange, to fellow members, and sales made on the floor of an exchange, are liable to the tax imposed by clause 2, Schedule A. war-revenue act. Sales made by correspondence or telegrams are subject to a tax of 10 cents on the note or memorandum of sale. (T. D. 21396; July 15, 1899.)

The memoranda of sales of stocks, issued by brokers, doing a legitimate broker's business, should be stamped at the rate of 2 cents per $100, or fraction thereof; and the memoranda of sales covering grain and other transactions, which brokers give customers, should be stamped at the rate of 10 cents. (T. D. 21540; August 26, 1899.)

Building and loan associations.

Any papers or instrument (otherwise taxable) executed by a building and loan association that makes loans only to its shareholders, or any such papers and instruments made or executed by the shareholders to the association and within the limits of its legitimate operation, are exempt from the stamp tax, except checks or drafts given by such associations, or by the shareholders thereof, which are subject to the tax. (T. D. 20187; October 11, 1898.)

If a broker sells goods, wares, products, or merchandise, he is subject to a tax of $20 as a commercial broker, and when he makes a sale of any goods or merchandise, stocks, bonds, exchange notes of hand, or property of any kind or description, he should affix and cancel a 10-cent stamp to his brokers' note or memoranda of sale. (T. D. 19998; September 1, 1898.)

Brokers' contract and notes—Stamp tax.

A contract used by real estate brokers in negotiating sales of real property requires a 10-cent stamp under paragraph 14, Schedule A, war-revenue law. (T. D. 116; May 1, 1900.)

With a view to uniformity of practice among collectors, the Commissioner sets out the essential requirements of clause 14 of Schedule A, act of June 13, 1898, relating to brokers' notes or memoranda of sales of real estate, stocks, bonds, etc. (T. D. 191; July 31, 1900.)

Bucket shops—Stamp tax.

Closing of stock transactions:

As to closing of transactions in stocks at bucket shops, it is held that there is nothing in paragraph 3 of Schedule A, act of March 2, 1901, which implies that a purchase or sale of stocks must be presumed, and a written memorandum delivered when a transaction is closed or terminated. The act presupposes that transactions are closed without such memorandum of purchase or sale because they are made with the intent that they may be closed, adjusted, or settled according to or with reference to the public market quotations of prices, or with the intent that they shall be deemed closed or terminated when the public market quotations shall reach a certain figure. It is only original transactions, either by pretended purchase or sale, that require written stamped memoranda to be delivered to the other party under said paragraph. (T. D. 308; March 25, 1901.)

Proprietors of bucket shops, who issue memorandums of their transactions in stocks and in cotton, grain, etc., even though they sell only "futures," are required to pay special tax both as brokers and as commercial brokers. (T. D. 21607; September 14, 1899.)

The United States Circuit Court of Appeals for the third circuit decides that no stamp tax accrues on a presumptive resale of stock where bucket-shop transactions are settled by payment of differences. (T. D. 311; March 26, 1901.)

That part of ruling 21279 (Treasury Decisions, 1899, vol. 1, p. 1164) which holds that in closing bucket-shop transactions written memoranda thereof, as agreements to resell shares of stock, must be made, and that stamps must be affixed thereto, is revoked. (T. D. 290; March 2, 1901.)

Butter, adulterated.

Collectors, in order that the files of the Bureau of Internal Revenue may be complete, are required, at the close of each month's business, to report the names of all persons who have paid special tax as manufacturers of renovated butter, adulterated butter, and oleomargarine, taxable at the rate of 10 cents and one-fourth cent per pound, respectively. (T. D. 576; September 2, 1902.)

In case of exportation of renovated butter it is unnecessary to furnish certificate of landing in a foreign country, etc., required by the regulations in case of exportation of oleomargarine or adulterated butter, but even when delivered on board a foreign ship there must be no erasing of the stamps, marks, etc. on packages of renovated butter as long as the ship remains in a United States port or in waters within jurisdiction of the United States. (T. D. 575 August 29, 1902.)

The Commissioner declares that in view of the requirements of section 4, act of May 9, 1902, the way is not clear for the formulation of regulations governing the exportation of adulterated butter which shall not require the branding of the words "adulterated butter" on packages for export, or the affixing of the label in which the words appear. (T. D. 532; June 6, 1902.)

The law does not define or place special taxes on wholesale or retail dealers in renovated butter, the only special tax in connection with renovated butter

Butter, adulterated—Continued.

being that of manufacturer, but a tax of one-fourth of 1 cent per pound is imposed on such renovated butter when manufactured and sold or removed for consumption or use. (T. D. 530; June 2, 1902.)

Butter packed by retail dealers:

Retail dealers are permitted to pack renovated butter from the original stamped package in advance of sales, put it up in packages marked and branded as the law and regulations prescribe, and offer same for sale, provided such prepared retail packages remain in the manufacturer's original package, or at most stacked up upon the outside thereof, or upon the lid detached from the package, until the contents have been bargained for and sold, provided that in so doing none of the marks, brands, stamps, and notices required upon the package are concealed. (T. D. 578; September 9, 1905.)

Butter returned to the factory:

All renovated butter returned to the factory should be noted on the report, Form 499, under a special heading written across the page, as follows: "Special account of tax-paid renovated butter returned to the factory." The details to be given consist of quantity, date when, and name and address of the person from whom such lot is received. (T. D. 596; September 17, 1905.)

Supplemental regulations, under act of May 9, 1902, are issued, being designed to modify in certain respects regulations No. 9, for the sake of uniformity and facility of reference to the matter, and intended as a substitute for all that part of the regulations appertaining to the title heading, "Process or renovated butter." (T. D. 592; October 20, 1902.)

"Ladled" butter:

It is ruled that the product commonly known as "ladled" butter is a grade of butter made by mixing or reworking different lots or parcels of butter so as to secure a uniform product, and this product, when placed in the domestic market, is subject to payment of internal revenue tax. (T. D. 783; April 27, 1904.)

"Ladled" butter, when subject to taxation:

Persons who engage in the production of "ladled" butter as a business will be held liable to special tax as manufacturers of renovated butter if they melt and refine their product, and to special tax as manufacturers of adulterated butter if they use in it substances foreign to statutory butter, or produce a butter having more than 16 per cent of water. Persons who sell "ladled" butter which is adulterated will be liable to special tax as dealers in adulterated butter. (T. D. 783; April 27, 1904.)

Marking is necessary:

Regulations as to the premises for the manufacture of renovated butter provide that "collectors of internal revenue will decline to approve the bond of a manufacturer of renovated butter unless they are satisfied that the premises to be used for the manufacture of that article are entirely separate from those used for the manufacture of adulterated butter or oleomargarine, or for the handling or manipulation of butter not taxable under the act of May 9, 1902." (See regulations, No. 9, p. 92.) (T. D. 588; October 6, 1902.)

Manufacturers of adulterated butter can not be relieved from the necessity of marking on their export packages the words "Adulterated butter." The caution label is also required by section 4, act of May 9, 1902. The marks and brands specified in the law are required to be placed on all packages removed from the factory, whether for export or tax paid and sold in this country. (T. D. 532; June 6, 1902.)

Refined butter, manufactured from salt, glucose, and imported low grade or "grease-butter," is subject to tax as adulterated. (T. D. 557; July 19, 1902.)

Butter, adulterated—Continued.

Marking is necessary—Continued.

Regulations, No. 9, revised in June, 1902, have been so modified as to permit the use of a rubber stamp for cancellation of tax-paid stamps for renovated butter in lieu of a stencil plate of brass or copper, as now required. (T. D. 561; July 31, 1902.)

Marking packages:

As to the practice of dealers in disposing of renovated butter taken from stamped packages without marking the parcels "Renovated butter," collectors are advised that internal-revenue officers should be governed by the instructions of this office dated February 9, 1902 (ruling 625, T. D.), and in such cases notify the Secretary of Agriculture, whose officers are charged with the duty of enforcing the regulations, No. 9, revised June, 1902, supplement No. 1, paragraphs 16 to 22, inclusive, sending a copy of their report to the collector and to this office. (T. D. 641; March 17, 1903.)

Packages imperfectly marked:

The Commissioner issues to internal-revenue officers and revenue agents instructions relative to imperfectly marked packages of renovated butter, requiring them to not only inform this Bureau as well as the collector of the district in which the violation of the law may occur, but also the Agricultural Department as to the number of the renovated butter factory in which the imperfectly marked goods were produced, together with the collection district in which the same is located, also the date of the removal of the goods ascertained from the date of the cancellation of the revenue stamp, and any other information bearing on the case. (T. D. 625; February 9, 1903.)

Repacking renovated butter:

Renovated butter should always bear or be accompanied by the evidence that the manufacturer's tax has been paid. Therefore it should not be removed or separated from the original package bearing the tax stamp and other prescribed marks when it is in transportation, the subject of interstate commerce, exported, or whenever or wherever offered for sale, until delivered to the consumer or purchaser in retail trade. (See regulations, No. 9, p. 95, par. 22.) (T. D. 578; September 9, 1902.)

Renovated butter returned to factory:

All renovated butter returned to the factory should be noted on the report, Form 499, under a special heading written across the page, as follows: "Special account of tax-paid renovated butter returned to the factory." The details to be given consist of quantity, date when, and name of consignee, or manner disposed of. (T. D. 596; November 17, 1902.)

C.

Capital of banks—Special tax.

Bank capital returns:

Under paragraph 1, section 2, act of March 2, 1901, a bank must include, as part of its capital and surplus, in its special-tax return, the sum of money or securities deposited as security for the faithful performance of all the trusts assumed by the bank. (T. D. 401; August 8, 1901.)

The Commissioner holds that banks and trust companies should include with their capital the amount of money which they set apart for use in conducting business, in making returns, and in reckoning the amount of special tax which they are required to pay. (T. D. 402; August 8, 1901.)

Cancellation of imprinted stamps.

All revenue stamps imprinted upon checks, drafts, and other instruments shall, after their redemption and before the return of the instruments to the owners thereof, be canceled by perforating or cutting a round hole about one-fourth of an inch in diameter therein, or through the instruments on which the stamps are imprinted. After the redemption and cancellation of the stamps the imprinted instruments may, upon the request and at the expense and risk of the owners thereof, be returned to said owners either by freight or express. (T. D. 509; April 25, 1902.)

Cancellation of stamps:

The date for the cancellation of stamps for fermented liquors is extended from July 1 to August 1, 1901, and shall be perforation, as required by circular 602. (T. D. 368; June 24, 1901.)

Cards, playing—Special tax.

No special tax is required, under the internal-revenue laws, for the business of manufacturing playing cards. Where a lithographer sends out sheets of unfinished playing cards to another person who finishes the cards, it is the latter and not the lithographer who is the manufacturer and who is required to put up the cards in packs and pay the tax of 2 cents on each pack and affix and cancel the requisite stamp under sections 38 and 39, act of August 28, 1894, and who is required to register as a manufacturer of playing cards with the collector of the district, under section 40 of this act. (T. D. 410; September 21, 1901.)

Cases cited—Judicial rulings.

Apple juice mixed with spirituous liquor; special tax; United States *v.* Lewis, district court southern district of Illinois, 1904. (T. D. 801; June 21, 1904.)

Assessments; R. W. Brown *v.* H. S. Harkins, collector; U. S. circuit court, western district of North Carolina, May term, 1903. (T. D. 662.)

Bank tax; undivided profits (Leather Manufacturers' National Bank, plaintiff in error, *v.* Treat, collector, defendant in error, 128 Fed. Rep., 263). (T. D. 750; February 9, 1904.)

Bond, distiller's annual, suit on; United States, plaintiff in error, *v.* National Surety Company, Kansas City, Mo., defendant; U. S. circuit court of appeals (122 Fed. Rep., 904). (T. D. 665.)

Bond, suit on collector's; Wm. M. Laffan, impleaded with others, plaintiff in error, *v.* United States, defendant in error; U. S. circuit court of appeals, second circuit, southern district of New York, decided April 10, 1903. (T. D. 653.)

Bottled beer, stamp tax under Schedule B; United States, plaintiff in error, *v.* J. D. Iler Brewing Company, defendant; U. S. circuit court of appeals (121 Fed. Rep., 41). (T. D. 630.)

Charter party; stamp tax (Ernest Lewis Simpson et al. *v.* Treat, 126 Fed Rep., 1003). (T. D. 742; January 13, 1904.)

Distilled spirits, forfeiture of; United States, ex rel., etc., *v.* Three Packages Distilled Spirits, A. Graff & Co., claimants; U. S. district court, eastern district of Missouri (125 Fed. Rep., 52). (T. D. 701.)

Excise tax on business of refining sugar (Spreckels Sugar Refining Company, plaintiff in error, *v.* McClain, 192 U. S., 397). (T. D. 760; March 8, 1904.)

Filled cheese, tax on goods exported; Cornell Brothers, plaintiffs in error, *v.* F. E. Coyne (192 U. S., 418). (T. D. 757; March 4, 1904.)

Fruit distillers; assessment of taxes (United States district court, middle district of Tennessee, No. 967, 1904; United States *v.* E. B. Cole). (T. D. 786; April 30, 1904.)

Legacy tax; personal property held in trust (Natalie Bayard Brown et al. *v.* W. Frank Kinney, 128 Fed. Rep., 310). (T. D. 764; March 15, 1904.)

Cases cited—judicial rulings—Continued.

Legacy tax; Vanderbilt et al. *v.* Eidman, collector; U. S. circuit court, southern district of New York (121 Fed. Rep., 590). (T. D. 618.)

Legacy to a municipal corporation; Wm. L. Snyder, executor, plaintiff in error, *v.* Bettmann, collector; U. S. Supreme Court, June 1, 1903 (190 U. S., 249). (T. D. 666.)

Legacy tax; King et al., executors, *v.* Eidman, collector; U. S. circuit court, southern district of New York. (T. D. 719.)

Legacy tax; vested and contingent interest (Louise L. Peck, executrix, *v.* W. Frank Kinney, 128 Fed. Rep., 313). (T. D. 763; March 14, 1904.)

Oleomargarine, artificially colored to imitate butter; constitutionality of law imposing tax (Leo. W. McCray, plaintiff in error, *v.* United States, May 31, 1904, 195 U. S., ——). (T. D. 795; June 4, 1904.)

Oleomargarine; palm oil as coloring matter (August Cliff, plaintiff in error, *v.* United States, October 24, 1904, 195 U. S., ——). (T. D. 839; October 28, 1904.)

Oleomargarine; waiver of jury (Fred J. Schick, plaintiff in error, *v.* United States, and Wm. Broadwell, plaintiff in error, *v.* United States, May 31, 1904, 195 U. S., ——). (T. D. 802; June 28, 1904.)

Official records, testimony of collectors and deputy collectors; In re Lamberton habeas corpus; U. S. district court, western district of Arkansas. (T. D. 689.)

Stamp tax on sales of stock; United States *v.* B. Z. Taylor; U. S. district court, southern district of Illinois, decided February 9, 1903. (T. D. 627.)

Shipping liquors under false brands (United States circuit court of appeals, fourth district, No. 502, United States, plaintiff in error, *v.* Twenty Boxes of Corn Whisky; N. Glenn Williams, claimant, defendant in error; decided November 15, 1904). (T. D. 844; November 28, 1904.)

South Carolina Dispensary; special tax (State of South Carolina *v.* United States, 39 U. S. Court of Claims, ——). (T. D. 759; March 8, 1904.)

Stamp tax; voluntary payment (Robert A. Chesbrough, plaintiff in error, *v.* United States, 192 U. S., 253). (T. D. 747; February 3, 1904.)

Stock transactions; stamp tax (The Municipal Telegraph and Stock Company *v.* Ward, collector, etc., 133 Fed. Rep., 70). (T. D. 774; April 12, 1904.)

Vested or contingent interest; legacy tax (Land Title and Trust Company, executor of Geo. M. Troutman, *v.* William McCoach, 126 Fed. Rep., 381). (T. D. 744; January 25, 1904.)

War-revenue tax; sale of stocks; Geo. C. Thomas, plaintiff in error, *v.* United States (192 U. S., 363). (T. D. 758; March 5, 1904.)

Cases and decisions of courts.

Bank notes, tax on; Bank of Iron Gate *v.* Maggie A. Brady, executrix of James D. Brady, deceased; decided March 24, 1902, in U. S. Supreme Court; vol. 185, U. S. Reports. (T. D. 493; March 29, 1902.)

Bank surplus and undivided profits; special tax due; Leather Manufacturers' National Bank *v.* Chas. H. Treat, collector; decided in U. S. circuit court (N. Y), 116 Fed. Rep., 774. (T. D. 538; June 23, 1902.)

Certificates of stock; tax on, constitutional; United States *v.* George C. Thomas; decided January 26, 1902, in U. S. circuit court, southern district of New York. (T. D. 468; February 4, 1902.)

Coupons in tobacco packages; Emanuel Felsenheld, claimant of 288 packages of Merry World Tobacco, *v.* United States; decided May 19, 1902, in U. S. Supreme Court; vol. 185, U. S. Reports. (T. D. 525; May 21, 1902.)

Dram-shop bonds, authorized by State and municipal regulations, held not taxable under Federal law; Peter Ambrosini *v.* United States; decided October 20, 1902, in U. S. Supreme Court; vol. 185, U. S. Reports. (T. D. 593; October 25, 1902.)

Cases and decisions of courts—Continued.

Excise tax on sugar refining; Spreckles' Sugar Refining Company *v.* P. A. McClain; U. S. circuit court of appeals; 113 Fed. Rep., 244. (T. D. 462; January 20, 1902.)

Legacy tax, nonresidents; decision in Eidman, collector, *v.* Martinez, 184 U. S., 578. (T. D. 490; March 21, 1902.)

Legacy tax, nonresidents; decision in Moore, collector, *v.* Ruckaber, 184 U. S., 593. (T. D. 490; March 21, 1902.)

Warehouse receipts, taxable; charge of Judge Clark, in Irby, Boyd & Ashford *v.* D. A. Nunn, collector; decided in U. S. circuit court, January 28, 1902, western division of western district of Tennessee. (T. D. 469; February 5, 1902.)

Caution notices.

The statute prohibits the use of any device, "caution notice," or trade label in the similitude of, or having the general appearance of, a stamp required by the internal-revenue laws for distilled spirits. The Commissioner of Internal Revenue has not adopted a standard as to what devices or trade labels of this kind are allowable and what are prohibited. (T. D. 507; April 21, 1902.)

The use of caution stamps on packages of distilled spirits can not be countenanced. Wholesale liquor dealers and rectifiers who place such stamps on packages containing distilled spirits must do so at their own risk if these caution stamps are in any wise in the similitude of stamps required for spirits. (T. D. 559; July 26, 1902.)

Caution labels, similar to revenue stamps, prohibited:

Collectors are advised that section 17, act of February 8, 1875 (sec. 3316a, Rev. Stat.), provides that the caution notice, label, or stamp used by the distiller, rectifier, or wholesale dealer renders the package liable to seizure, and the party placing thereon said notice or label to heavy penalties, provided the caution notice or label shall be in the similitude or likeness of, or shall have the resemblance or general appearance of, any internal-revenue stamp required by law to be affixed to the cask or package. (T. D. 607; December 17, 1902.)

Caution-notice labels, when legal:

Caution-notice labels with the name and address of the manufacturer printed above and separated from the notice proper by printed lines are not illegal.—T. D. 771, issued April 9, 1904, had reference only to the imprinting of the "union label or other extraneous matter" within the space reserved for the caution notice. (T. D. 779, April 20, 1904.)

The form of caution-notice labels:

Caution-notice labels must be in conformity with the regulations which prescribe that the manufacturer, if he so desires, may increase the size of his label and print immediately above the caution notice his name as manufacturer and his address and the trade-mark name of the cigars or cigarettes; but such matter must not encroach in any way upon the space reserved for the caution notice, which must be printed solid. (T. D. 794; May 31, 1904.)

Union labels on caution notices:

The imprinting and use of the union label, or other extraneous matter, on the caution-notice label by manufacturers of tobacco and cigars is held to be illegal and contrary to the regulations. (T. D. 771; April 9, 1904.)

Cartons, pasteboard, representing cigar boxes.

The use of "dummy" cigar boxes is not sanctioned by section 3397, Revised Statutes. Internal-revenue officers are authorized by section 3177, Revised Statutes, to examine such articles, in order to determine whether they are boxes of cigars or merely imitations. (T. D. 814; August 2, 1904.)

Cavendish tobacco.

Dealers in tobacco are not permitted to withdraw from original stamped packages of cavendish, plug, twist, or leaf tobacco any portion thereof to be used as sample packages, affixing thereto the words "This is an authorized subivision taken from a properly stamped package." Each such package must be individually stamped, branded, and labeled by the manufacturer. (T. D. 712; October 23, 1903.)

Circular No. 110, Internal Revenue, No. 648, sets forth amendatory regulations as to putting up, stamping, and labeling cavendish, plug, twist, and leaf tobacco. The regulations, as thus amended, require, among other things, that material of a substantial nature shall be used for packages containing cavendish, plug, or twist tobacco, after the same have been submitted to the Commissioner of Internal Revenue and approved by him, as provided in regulation No. 8, page 45. (T. D. 700; September 23, 1903.)

Charter parties. (See also Decision 19571.)

The term "vessel," in Schedule A, act of June 13, 1898, under the head of "Charter party," does not include barges which, under the law, are not registered, but are merely licensed. (T. D. 19653; July 7, 1898.)

The tax imposed under the war revenue act, on charter parties, is applicable to registered tonnage in the foreign trade, either American or foreign bottoms, but does not apply to enrolled or licensed tonnage. (T. D. 19823; August 3, 1898.)

Certificates—Stamp tax.

A notary public, when engaged in taking depositions to be used as evidence before some judicial tribunal, being a judicial officer, the certificate authenticating his official acts as such officer is not within the internal-revenue act of June 13, 1898 (30 Stat., 455), Schedule A requiring a 10-cent stamp to be affixed on a "certificate of any description required by law not otherwise specified in this act." (T. D. 122; May 11, 1900.)

Notarial certificates attached to depositions of witnesses, to be used in cases pending in court, do not require to be stamped, no matter in what form they are executed. (T. D. 9; January 8, 1900.)

Nonnegotiable commission certificates, used by thrashing-machine companies and the like, are not subject to stamp tax. (T. D. 23; January 24, 1900.)

Certificates of nonlanding:

Where articles subject to internal-revenue tax are laden for export on board a vessel subsequently touching at a domestic port, and no part of the cargo subject to said tax is landed at said port, the collector of the port of final clearance will, on clearance of the vessel and the receipt of certified copies of the entries filed at the port of original shipment, forward to the collector at the port of shipment a certificate of nonlanding, showing that no part of said vessel subject to internal-revenue tax was unladen at said port, or any other domestic port at which the vessel touched. (T. D. 563; August 6, 1902.)

Certificates of collateral pledges:

Certificates of shares of stock pledged as collateral for the future payment of money in definite sums are subject to tax under the act of March 2, 1901, on each $100 of face value, or fraction thereof, 2 cents. (See opinion of Attorney-General.) (T. D. 457; January 6, 1902.)

Duplicate certificate of residence:

Collectors are instructed to forward by registered mail to the Treasury Department for investigation and report every application made by a Chinese person for a duplicate certificate of residence, under the act of Congress approved November 3, 1893, and regulations made in pursuance thereof. (T. D. 609; December 23, 1902.)

Certificates—Stamp tax—Continued.

Duplicate certificate of residence—Continued.

The United States circuit court for the southern district of New York, in the case of United States *v.* George C. Thomas, decided January 26, 1902, that certificates of stock, under act of June 13, 1898, are subject to war-revenue tax of 2 cents per $100, and the act itself is held to be constitutional. The opinion of the court is promulgated for the information of collectors of internal revenue. (T. D. 468; February 4, 1902.)

Certificatee and revenue tax.

Certificates of authority issued to insurance agents by State officers are subject to taxation, and the rate imposed is 10 cents on each certificate. (T. D. 20551; January 16, 1899.)

Certificates of indebtedness issued by mutual, or deposit, or investment companies are taxable at the rate of 5 cents for each $100, or fractional part thereof, of the face value, and the face value is to be determined by ascertaining the highest value of the coupons attached to the certificates. (T. D. 219; September 28, 1900.)

Certificates of nomination and all papers relating to the exercise of elective franchise are exempt from tax. (T. D. 228; October 11, 1900.)

Certificates attached to depositions to be used in legal proceedings are not taxable under the war-revenue act. (T. D. (9); January 8, 1900.)

Certificates as to use of alcohol withdrawn from bond for scientific purposes under section 3297, Revised Statutes, held to be not subject to stamp tax under act of June 13, 1898. (T. D. 20980; April 3, 1899.)

Certificates of bank stock, taxable.

A certificate of bank stock is liable to stamp tax, as being equivalent to a memorandum or contract of sale. It is the evidence of the holder's title to shares in the property and franchises of a corporation. Congress has declared that every person who holds such a certificate in such artificial body and shall transfer by sale to another the right to participate in such corporation and become a member thereof shall pay a tax on the contract or transaction whereby the transmission is effected. See decision of circuit court of the U. S. for southern district of New York, January 26, 1902. (T. D. 468; February 4, 1902.

Certificates furnished by national banking associations making report of earnings and dividends, as required by section 5212, Revised Statutes, to be attested by the oath of the president or the cashier, are not subject to special tax. (T. D. 19698; July 14, 1898.)

Certificates of damage to vessels and their machinery require a 25-cent stamp only upon the original, not upon copies that may be made. (T. D. 19706; July 18, 1899.)

Certificates showing the transfer of shares of stock being liable to stamp tax are required to bear a stamp tax based on the face value of the shares. (T. D. 19710; July 19, 1898.)

Certificates of acknowledgment to deeds or to mortgages were expressly exempt from taxation under the old law of 1864, and are likewise held to be exempt under the law of June 13, 1898, they being considered a part of the deed or of the mortgage, which alone requires a stamp. Decision 19681 reversed. (T. D. 19764; July 26, 1898.)

Certificates issued by the health officer of New York, under State statute, relative to the employment of children, are exempt, being issued in the discharge

Certificates—Stamp tax—Continued.

Certificates of bank stock, taxable—Continued.

of a duty connected with the operations of the Government. (T. D. 19825; August 2, 1898.)

Certificates issued to teachers by State or county officers do not require a stamp. Certificates required by law, issued by State officers at request of private persons, solely for private use, require a stamp. (T. D. 19883; August 10, 1898.)

Certificates of membership in a wheelman's protective association are not taxable as certificates, but are subject to stamp tax as a guaranty. (T. D. 19934; August 22, 1898.)

Certificates as to indorsement by collectors, on registers, enrollments, etc., showing change in the mastership of a vessel, are not taxable. A certificate of acknowledgment on bills of sale are taxable at 10 cents, if required by law. A certificate to a mortgage, being a part of the instrument, which is taxable, is not itself taxable, being covered by the mortgage. Certificates of inspection of steam vessels, and all copies thereof, are exempt from stamp tax. (T. D. 20387; November 26, 1898.)

It is held that letters of administration, letters testamentary, or of guardianship, do not require stamps. Petitions for the appointment of administrators, executors, or guardians, require no stamps. * * * No stamp is required on certificate of tax sale for unpaid taxes, nor on the certificate of redemption from sale. (T. D. 19837; August 5, 1898.)

The words "certificate of any description required by law, not otherwise specified in this act, ten cents," as they occur in the war-revenue law of June 13, 1898, construed in response to various interrogatories addressed to the Commissioner. (T. D. 19746; July 21, 1898.)

Certificates of deposit—Stamp tax.

Certificates of deposit bearing interest are subject to a tax of 2 cents when for a sum not exceeding $100, and, also, to the same tax for every additional $100, or fractional part thereof. (T. D. 19570; June 24, 1898.)

Certificates of deposit, to secure the payment of gas bills, are taxable under paragraph 5, Schedule A, at 2 cents for each $100, or fractional part thereof, as deposits drawing interest. (T. D. 20003; September 3, 1898.)

Certificates of deposit payable on demand and bearing interest, if left for specified time, require a 2-cent stamp when issued, and, if paid subsequent to time, interest accruing, additional stamps at the rate of 2 cents per $100. (T. D. 20420; December 13, 1898.)

Charter parties.

The copy or duplicate of a foreign-made charter party, chartering a vessel to load at a port within the United States, which is the original evidence in this country of the vessel's charter and the evidence accepted by all concerned, is subject to taxation. (T. D. 21419; July 21,1899.)

The tax under the head of charter party is based on the *net registered* tonnage and not on the gross registered tonnage. (T. D. 21754; November 1, 1899.)

Charter party—Decision in Simpson et al.:

Decision of United States circuit court (N. Y.) in the case of Simpson et al. *v.* Treat, Collector, is published, sustaining the ruling of the Commissioner of Internal Revenue in regard to tax on charter parties. Copies of such papers used in this country, the originals of which were executed abroad, held subject to stamp tax under the war-revenue act (see T. D. 21419). (T. D. 742; January 13, 1904.)

Checks, drafts, notes, etc.

Banks must not affix stamps to unstamped checks presented, and must return to the drawer any unstamped check presented for payment. Contrary instructions, contained in Treasury decision 19606 (dated June 29, 1898) are revoked. (T. D. 21395; July 14, 1899.)

Grain and cotton tickets, cashed by a regular employee of the company issuing the same, or from buyers' own money in the hands of third parties, are not taxable. (T. D. 21708; October 30, 1899.)

It is held that promissory notes under seal are taxable as other promissory notes, and not as bonds. Therefore, the ruling on this point, in Treasury decision 21691, is revoked. (T. D. 21815; December 4, 1899.)

Orders for the payment of money are required to be stamped, although intended merely as receipts or vouchers. The drawer of the order is liable for the stamp, but, besides this, the maker, or party for whose use or benefit the order shall be made, signed, or issued, is liable also. (T. D. (3); December 30, 1899.)

Checks and drafts:

A check, being an order drawn on a bank, or banker, against a deposit, and payable on demand, requires a 2-cent stamp, whether payable in or out of this country. A draft being also an order for the payment of money, differs from a check in that it may or may not be payable on demand, whether abroad or in this country. Drafts, payable at sight or on demand, are taxable at the rates of 2 and 4 cents per $100, and a fraction thereof, the tax being applicable, excepting checks, to all orders drawn singly for the payment of money. (T. D. 21021; April 12, 1899.)

An order when liable to stamp tax:

An order for the payment of money, drawn by one officer of a lodge or society on the treasurer thereof, does not require to be stamped if presented for payment directly to the treasurer by the party in whose favor said order is drawn, but if the order is cashed by a bank or otherwise negotiated and presented to the treasurer for payment by a party other than the one in whose favor it was originally drawn, it requires a 2-cent stamp. (T. D. 21077; May 1, 1899.)

Bills of exchange or orders for payment of money drawn abroad, but payable in the United States *at sight or on demand*, require only a 2-cent stamp on each instrument. Reversal of ruling published as Treasury decision 20881 in this respect. (T. D. 20947; March 31, 1899.)

Orders for the payment of money contained in acceptance of drafts require but one stamp of 2 cents, whether the drafts are at sight or on time. (T. D. 20874; March 15, 1899.)

Receipts accepted in lieu of promissory notes as evidence of money loaned must be stamped as promissory notes. (T. D. 20985; April 8, 1899.)

Receipts presented by any person other than the depositor must be stamped. (T. D. 21020; April 12, 1899.)

(See also Decisions 20785, 20788, 20949, 20952, 21471, 21780.)

Check and orders, when taxable:

A check may be defined as a draft or order upon a bank, purporting to be drawn upon a deposit of funds for the payment of a certain sum of money to a person named therein, or to the bearer, and payable on demand. A check so drawn, whether inland or foreign, requires a 2-cent stamp. An order for the payment of money to a certain person, or to his order, or to bearer, may or may not be payable on demand, and requires a stamp at the rate of 2 cents per $100 or fraction thereof. An order for the payment of money taxable at the rate of 4 cents per $100 or fractional part thereof is predicated upon the fact that it is

Checks, drafts, notes, etc.—Continued.

Check and orders, when taxable—Continued.

payable abroad. The transfer of a certificate of stock from a decedent trustee to his successor is not taxable. A letter of advice to a foreign correspondent for payment of a lump sum, covering several orders, requires a stamp at the rate of 4 per cent per $100 or fractional part thereof on the basis of the total amount named. (T. D. 20648; January 30, 1899.)

"Cotton tickets" O. K.'ed by a buyer and paid with the buyer's money in the hands of third party are exempt from stamp tax. This would not include the payment of tickets by a bank out of the funds of depositors nor payment of tickets in the hands of persons to whom they had been transferred. (T. D. 20375; November 26, 1898.)

Check as a promissory note:

A check used as a promissory note is an acknowledgment of a debt, and must be stamped accordingly—that is, at the rate of 2 cents per $100 or fraction thereof—and if the collateral pledged as security for such a debt is pledged specifically for this one loan, then the pledge of collateral is subject to taxation on the amount of the loan in excess of $1,000 at the rate provided in the paragraph of Schedule A relating to pledge or mortgage. (T. D. 20463; December 27, 1899.)

Receipt for money is an acknowledgment of payment. Receipts used by depositors to withdraw money from bank, in place of checks, are held and relied upon as an order for payment of money and must be stamped. Privileged occupation as a "banker" involves reciprocal obligation to restrict the instruments upon which money is paid to such as are specified in the law to be used for that purpose. (Modified subsequently.) (T. D. 20192; October 12, 1898.)

A receipt may become a check:

Modifying decision (T. D. 20192), it is held that if a person does not give a check he does not have to pay tax, and if he goes to the bank and the bank pays him upon its dues to him and he gives a receipt, such receipt does not require a stamp; but if he issues his receipt so that it will be good in the hands of another person to draw upon his deposit for the amount of it, then it loses the character of a receipt and becomes a check or draft, and is subject to tax. (T. D. 20231; October 21, 1898.)

Grain tickets may be taxed as orders:

"Grain tickets," if found not to be used in good faith as receipts for the purchase price of grain, but as checks or orders for the payment of money by a bank are subject to stamp tax under the war-revenue law. (T. D. 20087; September 17, 1898.)

The renewal of a note does not of itself renew the pledge securing it. The pledge must be specifically renewed in order to subject it to taxation. (T. D. 20118; September 28, 1898.)

Whenever "grain tickets" are presented for payment to a private person under contractual relations with the person, firm, or corporation engaged in the grain business, they are subject to taxation as orders for the payment of money, no matter what may be the form of the ticket. (T. D. 20239; October 24, 1898.)

"Time checks" become taxable whenever they pass by transfer from a workman or employee to a third party, being then orders for the payment of money under the war-revenue act. (T. D. 20312; November 9, 1898.)

Drafts in favor of postmasters:

A debit ticket drawn by an officer or employee of a bank by direction of a depositor for the payment of a sum of money from funds deposited by said depositor, and used in lieu of a check, requires a 2-cent stamp. (T. D. 19931; August 19, 1898.)

Checks, drafts, notes, etc.—Continued.

Drafts in favor of postmasters—Continued.

Checks drawn in a foreign country, but payable in the United States, are subject to stamp tax at the rate of 2 cents on each $100, or fractional part thereof. (T. D. 19933; August 22, 1898.)

The ruling made July 8, 1898, with reference to drafts drawn in favor of postmasters must be confined to drafts drawn by disbursing officers or other government officers in favor of postmasters, or drafts drawn by a bank in favor of postmasters in the transmission of funds belonging to the United States, from one point to another. In the latter case the draft should state expressly on its face that the moneys are "United States funds." It is not extended to checks or drafts in favor of postmasters by private persons. Every check or draft drawn by a private person in favor of a postmaster should bear a 2-cent stamp, and postmasters should not receive checks or drafts of this kind from any person or from any bank unless the requisite stamp has already been affixed and duly canceled. (T. D. 20155; October 6, 1898.)

Checks and drafts of foreign diplomats:

The checks and drafts of ambassadors, ministers, and of other members of foreign diplomatic corps residing in this country are exempt from tax when such checks or drafts are made in the course of official business or in connection with expenses incidental to their residence here. If, however, such officials become owners of property in this country or engage in commerce they become, in connection with such business, subject to tax the same as citizens of this country, property holders, or merchants. (T. D. 20024; September 8, 1898.)

Where the treasurer of a savings bank issues his check and at the same time an order, the check and the order being fastened together and both presented to the bank, a 2-cent stamp, affixed to the check, is all that is necessary. (T. D. 19712; July 19, 1898.)

Coupons taxable:

Bank checks drawn in this country on a foreign bank are subject to the same tax as checks drawn in this country on domestic banks. (T. D. 19875; August 10, 1898.)

Checks of officers of either a county or municipal corporation, drawn in their official capacity in discharge of duties imposed upon them by law, are exempt from tax by the first proviso of section 17, act of June 13, 1898. (T. D. 19693; July 14, 1898.)

Interest coupons made in the form of promissory notes are taxable as promissory notes. Where a note embraces in its face value both principal and interest, tax is imposed on face value. The acknowledgment of an instrument does not require a stamp. A contract of bargain and sale of real estate is taxable as a conveyance. Where a lease is given to a tenant providing for rent payments represented by notes, both lease and notes are taxable. Assignments bear the same tax as original instruments. (T. D. 19800; August 1, 1898.)

Checks against public funds.

A judgment note, being a promissory note, although not a promissory note of the ordinary kind, is held by this office to be subject to stamp tax under paragraph 4, Schedule A, act of June 13, 1898. (T. D. 19652; July 7, 1898.)

Checks drawn against public funds belonging to the United States and deposited in a national bank by a postmaster to meet expenditures of his office are regarded as drawn in the legitimate exercise of official functions, and therefore exempt from stamp tax. (T. D. 19696; July 14, 1898.)

Checks, drafts, notes, etc.—Continued.

Checks against public funds—Continued.

Checks, drafts, or orders, of whatever description, made for the payment of money, excepting checks drawn by public officers against public funds to be used in the exercise of official functions, require the 2-cent stamp at the time of presentation. (T. D. 19711; July 19, 1898.)

Checks made and issued prior to July 1, 1898, do not require to be stamped under the act of June 13, 1898, even if they are not cashed until after July 1. (T. D. 19556; June 22, 1898.)

No stamp is required for the withdrawal of money from savings banks by depositors using pass books. (T. D. 1911; June 30, 1898.)

Official checks of disbursing officers of the Indian Service, drawn by them against public funds, in discharge of duties imposed by law, are exempt from stamp tax. (T. D. 19683; July 12, 1898.)

Orders drawn under a State law for the payment of money out of the State funds, and bank checks issued by the treasurer of the State for such payments, are exempt from stamp tax under Schedule A of the act of June 13, 1898. (T. D. 19523; June 18, 1898.)

The 2-cent stamp is required to be affixed to any check, draft, or order for the payment of money drawn by any person upon any other person. (T. D. 19654; July 7, 1898.)

Liability for unstamped check:

A bank officer receiving a check on which a stamp is required to be affixed, but which is without the stamp, becomes liable under section 10, act of June 13, 1898, unless at the time of receiving the check the bank chooses to affix and cancel the stamp. (T. D. 19568; June 24, 1898.)

Checks drawn by an officer of a company on the company for the payment of workmen are subject to stamp tax under the act of June 13, 1898. (T. D. 19574; June 25, 1898.)

Taxable bonds of officers:

Bonds given by all officers or employees, whether public or private, conditioned for the due execution or performance of the duties of any office or position, and to account for money received by virtue thereof, are taxable, except official bonds of State, county, or municipal officers. Indemnity bonds to indemnify persons who have become sureties on other bonds are taxable. See circular 610. (T. D. 432; November 7, 1901.)

Collectors are advised by internal-revenue circular 613 that in addressing official telegraphic messages it is necessary to use only the words "Commissioner Internal Revenue, Washington, D. C.," the name of the Commissioner or of a deputy commissioner being superfluous. In signing official messages the surname only need be used. Orders by telegraph for stamps should be avoided, if possible. (T. D. 444; December 9, 1901.)

Regulations are given in internal-revenue circular 589 to enable collectors to avoid disallowances in their disbursing accounts, and to protect them from loss by reason of improper payments on account of expenses of deputies. (T. D. 269; January 21, 1901.)

Use of special-tax stamp:

The Commissioner, in circular No. 595, calls the attention of collectors to the practice of some deputy collectors who issue receipts in violation of section 3183, Revised Statutes, for moneys received in payment of special taxes, and directs the immediate cessation of the practice. Where money is received in payment of special taxes the proper special-tax stamp, showing payment, must be issued to the taxpayer. (T. D. 297; March 11, 1901.)

Checks, drafts, notes, etc.—Continued.

Use of penalty envelopes:

The Commissioner issues circular No. 559 as to the use of penalty envelopes, instructing them that these envelopes can be used by private parties only where specific information is asked for by an officer authorized to use the same, and where the envelope is inclosed with the return address of persons from and through whom official information is desired. (T. D. 319; April 4, 1901.)

Collectors are advised as to the compensation limit of gaugers, storekeepers, and storekeeper and gaugers appointed under civil service rule 6, the pay of such officers being restricted to $3 per day or to $500 for any fiscal year. See internal revenue circular No. 614. (T. D. 447; December 12, 1901.)

The equalization of wantage:

In relation to the equalization of wantage in packages of spirits in warehouse gaugers, storekeepers, and storekeeper-gaugers, assigned to duty at distilleries and distillery warehouses where spirits are in store, are reminded that it is their duty to observe closely the conduct of all persons who have access to such spirits for legal and proper purposes, to the end that the fraudulent practice of equalizing wantage by shifting the spirits from one package to another may be prevented, and advised in circular No. 594 that any failure on their part to exercise due diligence in this respect will be considered ground for suspension from duty or removal from office. (T. D. 296; March 11, 1901.)

Records of grain distillers:

Revenue agents are instructed in circular No. 612 to rigidly enforce the regulations governing storekeepers and storekeeper and gaugers in keeping the records of the operations of grain distillers as to irregularities and violations of law, involving the necessity of reporting the same to the Commissioner. (T. D. 439; December 3, 1901.)

Special tax under act of 1901:

The Commissioner issues circular No. 26 (Int. Rev. No. 593) relative to the special tax created by act of March 2, 1901, instructing collectors that, for the period from April 1 to June 30, 1901, the special-tax stamps for broker of the present series will be used. For this purpose the stamps (and stubs) will be plainly marked "Class 2," and only this class of stamps will be issued from books so marked. Collectors will immediately, on receipt of this circular, make requisition on this office for such stamps as may be required in their respective districts. (T. D. 292; March 7, 1901.)

Circulars.

As to the redemption of stamps by banks or stationers, circular No. 603 says: "As stationers or the officers of banks can not generally make affidavit that their customers are not indebted to the United States, that they are the bona fide owners of the stamps presented for redemption, or to such other facts as are necessary to the support of claims, they can not be recognized as duly qualified agents for the presentation of claims for their customers." (T. D. 361; June 18, 1901.)

Circular No. 625, issued to collectors, with reference to excessive losses of distilled spirits in bonded warehouses, regulated under section 4, act of May 28, 1880, and section 58, act of August 28, 1894, and superseding circular 557, dated March 19, 1900. (T. D. 534; June 10, 1902.)

Circular No. 620, addressed to collectors with reference to exchanging beer, tobacco, and snuff stamps under the provisions of act of April 12, 1902, and accounting therefor, directs that brewers and manufacturers of tobacco and snuff having possession of unaffixed stamps issued for the payment of tax at

Circulars—Continued.

the old rate upon beer, tobacco, and snuff may present the same to the collector of their district on or after the date when the new rate of taxation goes into effect for exchange under the provision of law. (T. D. 503; April 16, 1902.)

Circular No. 635, issued to collectors, calling attention to the act of March 3, 1899, is not applicable to spirits produced and originally gauged on or after January 1, 1899, by which the allowance for loss of distilled spirits in bond was expressly limited. (T. D. 601; December 3, 1902.)

The Commissioner issues to collectors and others concerned, internal-revenue circular No. 596, setting forth instructions as to the preparation of claims for the redemption of documentary and proprietary stamps issued under the war-revenue law. (T. D. 305; March 22, 1901.)

Cancellation of beer stamps:

The Commissioner advises collectors in circular No. 605 that until September 1, 1901, the method of cancellation of beer stamps will continue to be by writing or imprinting the name or initial letters thereof and date of cancellation on the stamp as required by section 3342, Revised Statutes. Meantime, no objection will be made to cancellation by perforation, as prescribed in circular No. 602, amended by circular No. 604. (T. D. 381; July 16, 1901.)

Definition of mixed flour:

The definition of mixed flour under the act of March 2, 1901, is modified, the Commissioner instructing collectors in circular No. 42 (Int. Rev. No. 600) that on and after July 1, 1901, every person, firm, or corporation engaged in the grinding or mixing together of wheat or wheat flour as the principal constituent in quantity with any other grain, or the product of any other grain or other material, except such material not exceeding 5 per cent in quantity, and not the product of any grain as is commonly used for baking purposes, shall be deemed a maker or manufacturer of "mixed flour." (T. D. 322; April 9, 1901.)

Daily entries of the operations of grain distilleries must be rigidly kept by storekeepers and storekeeper and gaugers to enable examining officers to discharge in a satisfactory manner the duties imposed upon them. See circular 611. (T. D. 438; December 3, 1901.)

Tax on merchandise from Porto Rico:

Circular No. 602, issued by the Commissioner in pursuance of the first section of the act approved March 2, 1901, describing the method of cancellation of internal-revenue stamps by perforations, etc. (T. D. 347; May 22, 1901.)

Internal-revenue circular No. 604, modifying circular No. 602 as to date when the latter shall go into effect and as to the form of perforation permissible in the cancellation of stamps. (T. D. 368; June 24, 1901.)

Internal-revenue circular No. 578, revised, prescribes the character of reports that should be made by collectors as to tax-paid spirits in hands of wholesale liquor dealers and rectifiers October 1, 1901. (T. D. 397; August 7, 1901.)

The act approved April 12, 1900, having abolished duties on merchandise and articles coming into the United States from Porto Rico, so far as customs dues are concerned, the Commissioner issues circular No. 81 (Int. Rev No. 606), setting forth regulations relative to the collection of internal-revenue taxes which remain in force upon merchandise coming from said island. (T. D. 387; June 26, 1901.)

Exemptions of druggists:

Internal-revenue circular No. 608, as to exemptions of druggists from special tax as liquor dealers by the provisions of section 3246, Revised Statutes: Sale of malt extracts, bitters, and tonics. (T. D. 421; October 18, 1901.)

Circulars—Continued.

Distilled spirits at ports of entry:

Circular No. 96 (Int. Rev. No. 609) calls the attention of collectors and exporters of distilled spirits in bond to the requirements of law (sec. 3330, Rev. Stat., and amendatory act of June 9, 1874) and regulations (series 7, No. 4, arts. 20–42) respecting the inspection, lading, and clearance of such spirits at ports of entry. (T. D. 427; November 1, 1901.)

Distilled spirits, amended regulation as to marking:

Circular No. 136 (Int. Rev. No. 652) advises collectors of internal revenue that, as a number of wholesale liquor dealers have expressed a preference for cutting or burning, instead of stenciling, as the method of applying the required marks to the heads of packages of distilled spirits, which method of cutting or burning gives results equally satisfactory with those accomplished by stenciling, Department circular 126 (Int. Rev. No. 650), of November 9, 1903, is so far modified as to permit wholesale liquor dealers to affix the required marks by legibly cutting or burning the same on the head of the package or by stenciling. (T. D. 734; December 24, 1903.)

Circular No. 13 (Int. Rev. No. 591), addressed to collectors, extends the time for filing returns with collectors by manufacturers of and wholesale dealers in oleomargarine. (T. D. 281; February 15, 1901.)

The Commissioner issues to collectors circular No. 616, calling attention to violations of law and regulations by rectifiers and wholesale liquor dealers. (T. D. 455; January 2, 1902.)

Excessive losses of distilled spirits:

The attention of collectors is called in circular No. 618 to the requirements of regulations No. 7, revised April 15, 1901, as to the visits of general storekeepers and gaugers in charge of distillery warehouses, in order to prevent excessive losses from packages of distilled spirits lying in such warehouses. (T. D. 461; January 14, 1902.)

Brandy withdrawn from special bonded warehouses:

Collectors are instructed in circular No. 637 that, under section 45 of the act of October 1, 1890, the privilege is accorded wine growers who are not distillers of withdrawing brandy free of tax from special bonded warehouses to fortify their wines, provided they are wine growers within the meaning of the law, having a bona fide vineyard and in all other respects complying with office regulations, series 7, No. 5, Revised Supplement No. 1. (T. D. 603; December 15, 1902.)

Shipments to Philippine Islands:

The Commissioner, with the approval of the Secretary of the Treasury, issues circular No. 31 (Int. Rev. No. 619), relating to shipments to the Philippine Islands subject to internal-revenue tax, under act of March 2, 1902, whereby the regulations governing exportations are extended and made applicable to like articles shipped from the United States to the Philippine Islands in bond or with benefit of drawback. (T. D. 491; March 21, 1902.)

The Commissioner directs, in circular No. 568, revised, that collectors shall transmit their requisitions on Form 100 (revised 1902) for special-tax stamps for the special-tax year commencing July 1, 1902, and ending June 30, 1903. (T. D. 504; April 16, 1902.)

Preparation of refunding claims:

Circular No. 78 (Int. Rev. No. 627), prescribing rules and regulations for the preparation and disposal of claims for the refunding of taxes paid by corporations, associations, societies, or individuals as trustees or executors upon

Circulars—Continued.

Preparation of refunding claims—Continued.

bequests or legacies for uses of a religious, literary, charitable, or educational character, etc., in pursuance of section 1, act of June 27, 1902. (T. D. 543; July 3, 1902.)

Rubber stamps for cancellation:

The Commissioner issues circular No. 94 (Int. Rev. No. 632), approved by the Secretary of the Treasury, so modifying circular No. 9, revised June, 1902, as to permit the use of a rubber stamp for the cancellation of tax-paid stamps for renovated butter in lieu of a stencil plate of brass or of copper. (T. D. 561; July 31, 1902.)

Instructions to retail dealers in oleomargarine:

Circular No. 414, revised December 3, 1902, issued to collectors in regard to retail dealers in oleomargarine and containing extracts from the law and regulations No. 9, revised. Collectors are instructed to place a copy of this circular in the hands of each person to whom a special-tax stamp, as dealer in oleomargarine, is issued. (T. D. 600; December 3, 1902.)

Refunding Philippine taxes:

Circular No. 77 (Int. Rev. No. 626) calls attention to rules and regulations for the refunding of taxes paid upon articles shipped to the Philippine Islands since November 15, 1901, in pursuance of the second paragraph of section 6, act of March 8, 1902, entitled "An act temporarily to provide revenue for the Philippine Islands, and for other purposes." (T. D. 542; March 8, 1902.)

Instructions as to legacies:

Circular No. 630, issued to collectors, setting forth general instructions relative to legacies under section 3, act of June 27, 1902, entitled "An act to provide for refunding taxes paid upon legacies and bequests for uses of a religious, charitable, or educational character, for the encouragement of art, etc., under the act of June 13, 1898." All instructions in this circular inconsistent with the opinion of the Attorney-General, August 1, 1902, have been revoked. (See T. D. 570.) (T. D. 552; July 15, 1902.)

Transfer of deposits:

Circular No. 624, issued to collectors, conveys additional instructions relative to reporting collections on Form 58, in cases where money, having been deposited to the credit of the Secretary of the Treasury, is transferred to the credit of the Treasurer of the United States in favor of a collector by check of the Secretary of the Treasury. (T. D. 512; April 29, 1902.)

Executive order, preference of veterans:

Circular No. 87 (Int. Rev. No. 644) is issued, directing attention to the Executive order dated January 17, 1902, wherein the President desires that, wherever the needs of the service will justify it and the law permit, preference shall be given alike in appointment and retention to honorably discharged veterans of the civil war who are fit and well qualified to perform the duties of the places which they seek or are filling. (T. D. 681; July 18, 1903.)

Lists of leaf-tobacco dealers:

Collectors are advised in circular No. 649, in reporting lists of leaf-tobacco dealers in their districts on Forms 144 and 146, that, in all cases of losses of tobacco or of tobacco products, by fire, theft, or other casualty, upon which the owners will base a claim for credit in their accounts, the parties suffering such losses should immediately report the facts to the collector of their district in order that he may make the necessary investigation. (T. D. 710; October 17, 1903.)

Circulars—Continued.

Oleomargarine—Instructions to dealers:

Collectors are notified by circular 8 (Int. Rev. No. 639) that that part of regulations No. 9, revised June, 1902, contained in the last paragraph on page 30, is hereby modified so as to permit the use of a rubber stamp for cancellation of tax-paid stamps for oleomargarine, in lieu of a stencil plate of brass or copper, as now required.

The rubber stamp must contain the five parallel waved lines of sufficient length to extend over and beyond each side of the stamp onto the wood of the packages, and the printing must be distinct. (T. D. 614; January 12, 1903.)

Redemption of stamps:

Internal-revenue circular 596, revised October 1, 1903, rules that unused documentary and proprietary stamps, issued under the provisions of the war-revenue act, approved June 13, 1898, for which the owners have no use, may be redeemed, but in all cases there will be deducted the percentage, if any, allowed the purchaser. Application for the redemption of such stamps should be made to the collector of internal revenue from whom the same were purchased, who will supply the applicant with Form 38 and necessary instructions relative to the preparation of his claim. (T. D. 704; October 1, 1903.)

Special tax—Sale of beverages:

[Internal-revenue circular 640, relating to the liability to special tax of druggists and other persons who sell soda-water drinks, or similar beverages, to which distilled spirits, wines, or any compounds thereof are added. Amendatory to and explanatory of circular 636.] (T. D. 624; January 24, 1903.)

Exposure of official records prohibited:

Circular No. 651 is issued, calling the attention of internal-revenue collectors, district attorneys, and all others concerned, to regulations No. 12, prohibiting the giving out, by collectors, of information contained in the records of their offices, or copies thereof, for purposes not contemplated by the internal-revenue laws. (T. D. 727; December 10, 1903.)

The use of names on special-tax stamps:

Collectors are instructed, by circular No. 641, to inform all dealers located in their districts that they will save themselves trouble and possible expense if in ordering oleomargarine the name or names used are those appearing on their special-tax stamps, and that the law and regulations must be strictly complied with. This ruling applies equally to all dealers purchasing oleomargarine, whether individuals, firms, or corporations, or members of such making purchases of oleomargarine for sale by their respective firms or corporations. (T. D. 631; February 26, 1903.)

Delays in regauging bonded spirits:

Internal-revenue circular 645 directs the attention of collectors to the delays that have occurred in filing applications for regauge of bonded spirits for leakage allowance, under the provisions of section 50, act of August 28, 1894, and the act of January 13, 1903. Collectors are advised that requests for a regauge will in no case be accepted unless filed in the time limited by statute. Applications based upon alleged accident, oversight, or other cause, will not be considered. (T. D. 687; July 30, 1903.)

Distilled spirits, regulations as to marking, amended:

Circular No. 126 (Int. Rev. No. 650) instructs collectors of internal revenue and others appertaining to amendment of regulations governing the marking on and after January 1, 1904, of packages of distilled spirits put up by wholesale liquor dealers. (T. D. 716; November 9, 1903.)

Circulars—Continued.

Amendment of section 3255, Revised Statutes:

Commissioner calls attention to the act amending section 3255 of the Revised Statutes, stating exemptions allowed distillers of brandy from fruits. (T. D. 275; February 9, 1901.)

Distilled spirits, regulations as to marking, amended—Continued.

Circular No. 597, issued by the Commissioner, prohibits the unlawful designation by collectors of temporary storekeepers and storekeeper-gaugers to fill vacancies. (T. D. 306; March 22, 1901.)

Circular No. 598, as to special taxes of second-class brokers, dealers, and traders, and taxes on transactions set out in paragraphs 2 and 3 of Schedule A, act of March 2, 1901. (T. D. 318; April 3, 1901.)

Section 3255, Revised Statutes:

Circular No. 17 (Int. Rev. No. 592) issued in pursuance of section 3255, Revised Statutes, as amended by the act approved February 4, 1901, exempting distillers of brandy from figs or cherries from those provisions of the law from which distillers of brandy from certain other fruits have been exempted. (T. D. 288; February 23, 1901.)

Circular letters.

Fruit distillers' returns, Form 15:

Fruit distillers are required to report monthly on Form 15, revised April 22, 1901, all brandy sold or removed during the month, giving the information in detail as indicated by the subheadings of the various columns under the general heading, "Brandy sold or removed." The regulations require the returns to be made until all brandy has been sold or removed, even though the stills may have been registered not for use. (T. D. 745; January 29, 1904.)

Receipts for moneys paid by clerks of courts:

Collectors are directed to use Form 540, in receipting to clerks of courts for money paid over to them in internal-revenue cases under section 3216, Revised Statutes. (T. D. 754; February 27, 1904.)

Renovated-butter stamps:

Collectors are notified that, in regard to tax-paid stamps, manufacturers of renovated butter are required to insert in the renovated-butter stamps affixed by them, in the space provided for that purpose, the date when cancelled. (T. D. 773; April 11, 1904.)

Circular letter is sent by the Commissioner to collectors, instructing them that, under existing laws, it is not possible to return checks to the owners after the imprinted stamps have been redeemed, but they will be preserved subject to future action of Congress. (T. D. 403; August 13, 1901.)

Surplus proceeds of distrained property:

Collectors are advised by Commissioner's letter that, in conformity with a decision of the Comptroller of the Treasury, in cases of the surplus proceeds of property distrained and sold under internal-revenue laws for nonpayment of taxes, the legal title being in doubt, pending the investigation as to the proper claimant, such proceeds can not be returned to the person entitled to receive the same, but must be deposited to the credit of the Treasurer of the United States. (T. D. 390; July 21, 1901.)

Revision of Form 45:

Collectors are informed that Form 45 has been revised so as to better adapt it to the regulations governing the subject of rectification, but will be continued in use until the returns for June, 1901, are all in. (T. D. 353; June 3, 1901.)

Circular letters—Continued.

Revision of Form 45—Continued.

Commissioner issues circular letter to collectors of internal revenue, calling attention to the amended tax list under the act of March 2, 1901, repealing certain taxes on and after July 1, 1901. (T. D. 325; April 17, 1901.)

Commissioner issues circular to collectors notifying them that it is not necessary to procure separate certificates of deposit for sums realized from the sales of real estate, and that the same should be included in their regular daily certificate. (T. D. 278; February 12, 1901.)

United States district attorneys are instructed that there should be no unnecessary delay in proceedings to enforce collection of judgments when obtained. District attorneys should exercise vigilence to guard the interests of the Government, and should not consider that their duties in the case are concluded until the amounts of the judgments are collected, where collections are possible, and the moneys paid into the registry of the court and thence into the Treasury of the United States. (T. D. 348; May 23, 1901.)

United States attorneys will notify the Commissioner of Internal Revenue when an indictment is found against any officer of internal revenue. (T. D. 450; December 18, 1901.)

United States marshals—Judgment creditors.

On the 1st day of October United States marshals will report to the Commissioner of Internal Revenue the status of all judgment debtors of the United States under the internal-revenue laws within their respective districts as ascertained or known to them. (T. D. 703; September 28, 1903.)

The Commissioner calls the especial attention of collectors to the following instructions relative to the preparing and filing of bonds, notices, and inventories by manufacturers of oleomargarine and renovated butter, viz: Section 5, act of August 2, 1886; section 4, act of May 9, 1902, and regulations No. 9, page 20, paragraph 1; page 24, paragraph 1, and page 92, paragraph 9. (T. D. 673; June 27, 1903.)

Compromise cases:

Offers of compromise in revenue-tax suits should include payment of costs, and the costs should be deposited in advance, in order to prevent any misunderstanding. (T. D. 642; March 20, 1903.)

Distilled spirits—Imitation stamps:

Circular letter addressed to collectors, relative to caution labels on packages of distilled spirits, in similitude of or having the resemblance or general appearance of an internal-revenue stamp, calling attention to circular 638. (T. D. 647; April 3, 1903.)

Distillers' annual bonds:

Collectors are instructed that the rights of distillers, under their present bonds, cease with the 30th of April, 1903, and those desiring to continue business after that date must give new notices and execute new bonds. These papers should be prepared and submitted a sufficient time in advance of May 1 to enable collectors to investigate and approve the bonds. (T. D. 650; April 6, 1903.)

Assessments for deficiencies:

Assessments for deficiencies are predicated, in part, on the inventories which, under sections 3358 and 3390, Revised Statutes, manufacturers of tobacco and of cigars are required to make of their stock on the first day of January each year, and it is essential that all doubt as to the accuracy of an inventory shall be removed before the new accounts for the succeeding year are formally opened. (T. D. 726; December 9, 1903.)

Circular letters—Continued.

Assessments for deficiencies—Continued.

Collectors are given particular instructions relative to making reports on Form 22, inasmuch as reports on that form contain data from which is obtained statistical information for the annual report of the Commissioner of Internal Revenue. It is important that collections be classified correctly. (T. D. 565; August 13, 1902.)

Cigars and tobacco—Inventory:

Collectors are instructed that the stocks inventoried by manufacturers of cigars and tobacco on January 1 next shall be examined and each inventory verified by a deputy collector, and Forms 144 and 146 should be prepared and forwarded to the office within ninety days from the 1st day of January. (T. D. 726; December 9, 1903.)

Decrease in mixed flour revenue:

Collectors are informed by circular letter that, for six months ended December 3, 1901, a material falling off in the revenue derived from mixed flour appears, as compared with the same period of the previous year, and, in order to learn the cause of the decrease, especial attention of collectors is called to regulations No. 25, and Circular 600, with the request that they institute a thorough canvass of their respective districts, with a view of ascertaining whether mixed flour is being manufactured and placed on the market without full compliance with the law. (T. D. 471; February 6, 1902.)

Violations of revenue laws:

Where violations of internal revenue laws are involved, each case shall be considered and determined on its merits, irrespective of cost of investigation. As a rule, however, the sum tendered should not be less than the expense incurred by the Government in connection with the case. Internal revenue officers not to advise acceptance of offers of $5 except in extreme cases. (T. D. 496; April 2, 1902.)

Imported cigars—Stamp tax:

The Secretary of the Treasury advises collectors that section 2804, Revised Statutes, as amended by section 25, act of August 28, 1894, requires the inspection and stamping of imported cigars before delivery from customs custody. Therefore, "Cigars from the Philippine Islands should be stamped with customs stamps like cigars imported from foreign countries, and the word 'Philippines' should be placed on the stamps by way of destination." (T. D. 582; September 23, 1902.)

Instructions by Secretary of Agriculture:

Collectors are notified by circular letter that the Secretary of Agriculture has issued instructions to all inspectors, officers, or agents of his Department, requiring them to render every possible assistance to officers or agents of this Bureau in connection with the manufacture of renovated butter. As the supervision of this business is required to be carried on jointly between the two Departments, collectors will instruct their deputies to confer with and assist the officers of the Agricultural Department intrusted with this work. (T. D. 550; July 14, 1902.)

Monthly reports on renovated butter:

Collectors are instructed in circular, that, in making manufacturers' monthly reports of renovated butter, on Form 499, and in collectors' monthly statement of renovated-butter accounts, on Form 515, in all instances, only the actual and not estimated weights be given. Any fractional part of a pound in a package shall be taxed as a pound. (T. D. 606; December 15, 1902.)

Cigarette stamps, etc.

Difference in cigarette stamps:

Cigarettes and small cigars, weighing not more than 3 pounds per thousand, must be put up in boxes containing 10, 20, 50, or 100 cigarettes each, and each box must be properly stamped. The caution-notice label and brands must appear on the carton in which small stamped packages are repacked. (T. D. 651; April 8, 1903.)

The Commissioner, in letter to all officers of internal revenue, defines the difference between cigarette stamps representing tax of 54 cents per thousand and those representing tax of $1.08 per thousand. (T. D. 433; November 16, 1901.)

Revised internal-revenue records:

Commissioner, in letter to collectors of internal revenue, referring to the act of March 2, 1901, imposing new rates of tax, beginning on and after July 1, 1901, gives instructions as to revised internal-revenue records relating to the sale of stamps for beer, cigars, cigarettes, tobacco, and snuff, and special taxes. (T. D. 360; June 18, 1901.)

Stating accounts:

The entire material account should be stated in columns 1 to 10, inclusive, relating to cigarettes, tax paid at the rate of $1.08 per thousand, deducting from columns 9 and 10 the quantity of tobacco used in making cigarettes, tax paid at the rate of 54 cents per thousand, allowing 5 pounds of unstemmed or 3 pounds of stemmed leaf used in manufacturing 1,000 cigarettes. (T. D. 463; January 24, 1902.)

Tax on wholesale price:

Tax may be paid on cigarettes according to their wholesale value or price. If cigarettes are sold by the manufacturer in the usual course of trade at $2 or less per thousand, properly stamped, collectors may sell stamps for payment of tax on such cigarettes at the rate of 54 cents per thousand. (T. D. 571; August 27, 1902.)

Cigar boxes.

Removal of cigar-box covers:

A box of cigars without a cover is not a statutory package. A considerable part of the stamp and possibly, also, the brand and caution notice is missing. Prima facie, as the box has but part of a stamp upon it, it is liable to forfeiture under section 3398, Revised Statutes. The evidence of tax payment is the stamp. It is therefore to the interest of dealers as well as of the Government, according to a ruling made November 23, 1903, that cigars should be kept under cover of the stamp, marks, and brands in complete form. (T. D. 724; December 5, 1903.)

Cigars upon which tax has been paid may be returned to the factory and repacked and restamped, and after inspection must be accounted for on book 73 and monthly return, Form 72, separately from other cigars. The total number of cigars to be accounted for during that month will include the number on hand at the beginning of the month and the number returned to the factory to be repacked and restamped and the number manufactured each day during the month, all of which cigars must be tax paid before removal from the factory. (T. D. 680; July 14, 1903.)

Cigar boxes which have never been used for packing cigars, but are intended for display in advertising, while not prohibited by law, are objectionable, and their use should be discouraged. (T. D. 713; November 3, 1903.)

Cigar coupons:

Small advertising cards, coupons, and circulars placed by manufacturers in boxes containing cigars must relate to their business and advertise their cigars

Cigar boxes—Continued.

Cigar coupons—Continued.

and not relate to or advertise the business of other persons. The manufacturer's name, address, and registered factory number must appear printed on each card, coupon, and circular placed in statutory boxes containing cigars (T. D. 572; August 27, 1902.)

Containers for cigars—Must be boxes:

Containers or other receptacles for packing cigars which are not in the form of boxes, with a lid or cover, are illegal and liable to seizure and forfeiture. Mere rolls or wrappers of paper or other fibrous material, such as the leaves of the Jagua palm, tied at each end, are not regarded as boxes within the meaning of the statutes. (T. D. 738; January 6, 1904.)

Foreign articles in boxes of cigars, such as small match attached to each cigar by means of paper band, under section 3394, Revised Statutes, as amended by section 10, act of July 24, 1897, and further by section 2, act of July 1, 1902, not permitted. (T. D. 722; November 30, 1903.)

Cigar-box covers may be sawed or cut off at the inner edge of the stamp, and the part of the cover without the stamp be placed under the box without violation of law, the remaining portion of the cover, having the stamp attached, to remain on the box until emptied and the stamp destroyed. (T. D. 788; May 17, 1904.)

Subdivisions or parcels of packages of cigars:

The regulations not construed as prohibiting the tin foil or wax-paper wrappings, inclosing subdivisions or parcels of packages of cigars, weighing more than 3 pounds per thousand, from being turned over or closed at both ends. The provision requiring subdivisions to be open at one end applies to wrappers or inclosures other than those mentioned. (T. D. 815; August 22, 1904.)

The placing of one or more cigars in a separate box to be forwarded by mail or express or otherwise as a sample to prospective customers, whether such cigars are taken from stamped packages or not, is illegal, and can not be authorized nor permitted under the law. The sale, or offering for sale, or keeping for sale, of cigars in boxes not bearing the proper internal-revenue stamp is prohibited by section 3398, Revised Statutes. (T. D. 731; December 18, 1903.)

Stamping, branding, and labeling:

Under existing regulations it is held that boxes of cigarettes or little cigars in denominations 10 and 20 when properly stamped, the stamp duly canceled or so affixed that the package can not be opened without breaking the stamp, the caution notice printed thereon as well as the factory brand, showing the number of the factory, district, and State, and the number of cigarettes or cigars contained therein, are complete statutory packages in themselves, and the boxes or cartons in which they are packed are mere shipping cases which are not required to be branded or labeled, but if the caution notice, label, or the factory brand is omitted from the stamped packages then the caution notice and factory brand must appear on the carton; otherwise the packages are illegal. (T. D. 825; September 6, 1904.)

Cigar manufacturer.

Bond of a minor:

Where a son who is a minor undertakes to conduct the business of a cigar manufacturer in place of his deceased father until an administrator on his father's estate shall be appointed and qualified, it is necessary that he shall first give a bond, with approved security, lasting during the interval indicated. The administrator, when appointed, must give a new bond of his own. (T. D. 792; May 26, 1904.)

Cigar manufacturer—Continued.

Cigar manufacturers' signs:

Under section 3388, Revised Statutes, the sign of a cigar manufacturer is required to be printed in the English language. No other construction can be reasonably given to the statute. (T. D. 811; July 18, 1904.)

Cigars and snuff—Outside packages:

Sections 3363, 3366, 3374, and 3404, Revised Statutes, permit tbe sale of manufactured tobacco, snuff, cigars, and cigarettes by retail dealers from the original manufacturer's stamped packages only (see Int. Rev. Circular 643), and manufactured tobacco, snuff, cigars, and cigarettes found on the market outside of the manufacturer's packages in which they were originally packed are subject to seizure and forfeiture, and the person in whose possession the same are found is liable to prosecution and, on conviction, to heavy fines and imprisonment. (T. D. 678; July 14, 1903.)

Cutting and furnishing cigar wrappers:

Cigar wrappers, cut and furnished to cigar manufacturers by leaf dealers, held to be manufactured tobacco, and dealers in leaf so manipulating their leaf tobacco must qualify as manufacturers of tobacco. (T. D. 775; April 12, 1904.)

Sureties on bond:

Section 3387, Revised Statutes, provides that a cigar manufacturer shall give a bond in such penal sum as the collector may require, not less than $100, and the sum of said bond may be increased from time to time, and additional sureties required, at the discretion of the collector or under the instructions of the Commissioner of Internal Revenue . (T. D. 740; January 9, 1904.)

Cigars—Tax.

Discount allowances:

The act of March 2, 1901, imposes new rates of tax on beer, cigars, and cigarettes, allowing a discount to manufacturers on all sales of tobacco and snuff, the changes taking effect on and after July 1, 1901. (T. D. 360; June 18, 1901.)

Inspection of merchandise from Porto Rico:

As articles of merchandise received from Porto Rico are not now subject to customs duties, cigars, cigarettes, or other articles subject to internal-revenue tax, found in the baggage of passengers from Porto Rico will be detained by the inspector in charge until the character of the internal-revenue stamps required shall be clearly indicated to the owner of the cigars. See circular No. 85 (Int. Rev. No. 607). (T. D. 407; August 22, 1901.)

Imitation packages:

Packages put up in imitation of statutory packages of tobacco or cigars and bearing statutory labels and imitation stamps are unlawful packages and subject to forfeiture. A manufacturer should not use dummy packages which are a counterpart of his statutory packages. (T. D. 312; March 26, 1901.)

Manufacturers required to put up their domestic cigars in boxes not before used for that purpose. If boxes are made from some material other than wood, the manufacturer is required to submit a sample box to the Commissioner for his approval. Glass jars are not approved as substitutes for wooden boxes for packing cigars. (T. D. 332; April 25, 1901.)

Circuses. (See also Exhibitions and shows; and Decisions 19799, 19830, 19960.)

A show under canvas exhibiting, among other things, acrobatic and athletic exercises, but no feats of horsemanship, and having no menagerie, is not subject to special tax as a circus ($100) under paragraph 7 of section 2, act of June 13, 1898, if the acrobatic exercises are so few and simple as to make it unreasonable to hold that they constitute the show a circus. (T. D. 19944; August 24, 1898.)

Circuses—Continued.

A small wagon show having no "circus feats," but only "such acts as trapeze, wire walking, trained ponies, singing, and dancing," is not to be regarded as a circus within the meaning and intent of paragraph 7 of section 2, act of June 13, 1898. It is a show coming under the eighth paragraph, for which the special tax of $10 is required to be paid. (T. D. 19975; August 30, 1898.)

Special taxes are required to be paid by small theatrical companies, as well as by circuses and other exhibitions. (T. D. 19602; June 28, 1898.)

The provisions of paragraph 7, section 2, act of June 13, 1898, require the payment of special tax ($100) not by circuses only, but by all shows traveling in the United States and coming within the definition of a circus therein given, viz, that "every building, space, tent, or area where feats of horsemanship or acrobatic sports or theatrical performances are exhibited, shall be regarded as a circus." (T. D. 19761; July 26, 1898.)

Circulation tax.

A bank does not become subject to the tax of 10 per cent under section 20, act of February 8, 1875, for merely receiving on deposit Canadian bank notes that had been used for circulation. It is only when it pays out in the United States these notes that it is required to pay this tax. (T. D. 242; November 9, 1900.)

Banks in the United States receiving on deposit and paying out Mexican bank notes which have not been, nor are at any time, used for circulation in the United States, are not required to pay a tax of 10 per cent thereon under section 20, act of February 8, 1875. (T. D. 257; December 14, 1900.)

Whenever Canadian bank notes or any notes, foreign or domestic, other than national-bank notes, are used for circulation in the United States, any bank receiving such notes and paying them out again in the United States is required to pay the tax of 10 per cent under section 20, act of February 8, 1875. (T. D. 181; July 23, 1900.)

Charter parties—Stamp tax.

Charter parties that are enrolled under Title L of the Revised Statutes are exempt from tax under the principles announced August 3, 1898, when plying between ports in the United States and those of Porto Rico. (T. D. 118; May 4, 1900.)

Where more than one vessel is chartered under one charter party, the tax accrues on the basis of the net registered tonnage of each vessel. (T. D. 25; January 27, 1900.)

Imprinted tobacco stamps:

Collectors are advised that manufacturers of tobacco desiring to use stamped tinfoil wrappers may forward estimates of the amounts they severally desire printed for early use to the collectors of their respective districts. Upon receipt of such estimates, collectors will make an entry of the same in a record kept for that purpose, specifying the name of the manufacturer, the number and denomination of the stamps desired, and the stamp agent to whom the order will be referred, and will then forward to this office a request for the imprinting of the stamped wrappers, setting forth in full the facts contained in the entry aforesaid. (T. D. 616; January 14, 1903.)

Hours of labor in collectors' offices:

Collectors of internal revenue are notified by the Commissioner, in circular 655, of the order issued by the Secretary of the Treasury fixing the hours of labor in the Department from 9 a. m. to 4.30 p. m., with an allowance of one-half hour for luncheon, on and after January 11, 1904. (T. D. 756; March 1, 1904.)

Charter parties—Stamp tax—Continued.

Modification of circular 655 as to hours of labor:

Circular No. 656 issued, calling the attention of collectors to the amendment of Treasury decision 24878, so that the hours of labor may conform to the business custom of the vicinity in which their offices are located, observing, however, the rule of keeping their offices open for the transaction of business at least seven and one-half hours each day, except on such days as by order of the Secretary they may be closed at 1 o'clock to meet local conditions as to places of deposit. (T. D. 769; April 1, 1904.)

Circular letters to collectors.

Recommendations for promotion, demotion, suspension:

The attention of collectors is called to Department circular 118, dated October 6, 1903, regarding promotions, demotions, or reductions in grade, suspensions, and resignations of officers, clerks, and employees of the Treasury Department, and requiring a report as to the date of last promotion, the class of work done, the aptitude for the general service of the office, the standing as to punctuality, attendance, attention to duty, etc. (T. D. 711; October 19, 1903.)

Rebate on packages of tobacco and snuff:

The attention of collectors is called to the act of March 3, 1903, relating to the payment of rebate of tax on snuff and tobacco under the act of April 12, 1902, providing that claims for rebate should be inventoried on July 1, 1902, but forbidding the payment of them unless presented prior to April 1, 1903. All claims included in these provisions and presented prior to April 1, 1903, will be received and forwarded the same as if regularly presented within sixty days after July 1, 1902. (T. D. 634; March 5, 1903.)

Seizures of property and advertising:

Collectors are advised by circular as to incurring expenses for advertising in connection with seizures for violation of law, or under distraint, under any section of the statutes, and are enjoined against unnecessary delays in making sales, providing against postponement beyond the statutory period, and making reports promptly at the end of each quarter on Form 474. (T. D. 623; January 23, 1903.)

Special-tax stamps:

The Commissioner issues circular to collectors relating to requisitions on Form 100 for special-tax stamps for the special-tax year commencing July 1, 1903, and ending June 30, 1904. (T. D. 656; April 16, 1903.)

Transcripts of leaf-tobacco dealers' books:

Collectors are instructed relative to transcripts of the books of leaf-tobacco dealers (No. 59). They are advised that in the preparation of quarterly transcripts of these books on Form 434 entries of all sales to purchasers in one district should be made separately from sales to other districts—that is, the transcripts should not embrace more than one district, separate sheets being used for each district. (T. D. 675; July 3, 1903.)

Sales of leaf tobacco—Book 59:

In all cases where tobacco is for any reason returned to the seller by the consignee, proper entries should be made in Book 59 canceling or explaining the transaction so that the purchaser will not be held accountable for the tobacco so returned. (See regulations No. 8, page 18, relating to tobacco returned to dealers.) (T. D. 826; September 8, 1904.)

Serial numbers on cases of distilled spirits:

Circular No. 71 (Int. Rev. No. 660) instructs collectors that in view of the provisions made in circular 631 of July 18, 1902, for the use of the same bottling

Circular letters to collectors—Continued.

Serial numbers on cases of distilled spirits—Continued.

warehouse by different distillers having spirits stored in different warehouses on the same distillery premises, and in order to secure uniformity in the matter of numbering cases containing spirits bottled on the same distillery premises, such cases will hereafter be numbered consecutively, as provided in circular 546, as to original packages containing spirits produced by different distillers at the same distillery. (T. D. 805; July 6, 1904.)

Supplemental regulations as to withdrawal of distilled spirits:

Departmental circular No. 104 sets forth supplemental regulations governing withdrawal of distilled spirits from bonded warehouse for use of the United States, free of tax, under provisions of section 3464, Revised Statutes. (T. D. 848; December 23, 1904.)

Temporary appointments:

Temporary appointments in cases of emergency must be promptly reported by collectors on Form No. 241, that proper action may be taken. (T. D. 791; May 24, 1904).

Revenue officers acting as book agents:

Circular No. 665, as to the prohibition of revenue officers acting as agents for the sale of books to distillers, brewers, and others, denounces the practice as detrimental to the public service and against the interests of the Government. (T. D. 831; October 6, 1904.)

Internal Revenue circular 654 contains instructions extending regulations concerning reduction in proof of spirits in distillers' original packages and allowing additional compensation in certain cases to gaugers who reinspect spirits after reduction, so as to apply to said original packages after they have been removed tax paid, and are still in possession of the distiller at his free warehouse. (T. D. 748; February 3, 1904.)

Special-tax stamps for year ending June 30, 1905:

The Commissioner issues circular letter instructing collectors as to requisitions on Form 100 (revised 1902) for special-tax stamps for the special-tax year commencing July 1, 1904, and ending June 30, 1905. Collectors are directed not to issue special-tax stamps for the special-tax year ending June 30, 1905, until Form 11, properly filled out, and the money for the stamps have been received; and the stamps *must be issued in consecutive order*, the dates upon the stubs so indicating. (T. D. 777; April 16, 1904.)

Revising circular 84 (Int. Rev. No. 628) and modifying regulations:

Department circular 84 (Int. Rev. No. 628) prescribed rules and regulations for the preparation of claims for refunding amounts paid for documentary stamps on export bills of lading under the act of June 13, 1898, and regulations prescribed January 3, 1903, published as regulations No. 14, revised, revised said circular and provided additional requirements in preparing said claims, to wit, that each claim should be accompanied by a schedule of the bills of lading, giving date, kind of goods, port from which and to which the shipments were made, the names of the consignor and the consignee, and the means of transportation employed, giving the name of the vessel. This requirement was to prevent the allowance of duplicate claims. (T. D. 819; August 24, 1904.)

Circular No. 666 is issued, giving notice of change in name of bank to which remittances for gauging rods must be made. (T. D. 840; November 4, 1904.)

Checks, orders, certificates of deposit—Stamp tax.

Checks on banks, issued by clerks of United States courts and State courts by direction or authority of the court, are exempt from taxation. (T. D. 131; May 19, 1900.)

Checks, orders, certificates of deposit—Stamp tax—Continued.

Orders for the payment of money are required to be stamped, although intended merely as receipts or vouchers. The drawer of the order is liable for the stamp, but, besides this, the maker, or party for whose use or benefit the order shall be made, signed, or issued, is liable also. (See decision of United States circuit court, district of South Carolina, in Granby Mercantile Company *v.* E. A. Webster.) (T. D. 3; December 30, 1900.)

Receipts for insurance premiums, gas, water, telephone bills, and the like, when paid by banks and charged to depositors' accounts, must have a 2-cent stamp affixed thereto as orders for payment of money. (T. D. 24; January 25, 1900.)

When rent notes pass from lessee to lessor in payment of rent they are not taxable as leases; if payable in money, they are taxable as promissory notes; if payable in merchandise, no tax accrues. (T. D. 36; February 7, 1900.)

Time drafts drawn on persons in the island of Porto Rico are taxable under the paragraph in Schedule A of the war-revenue act relating to inland bills of exchange. (T. D. 252; December 3, 1900.)

Checks of trustees:

Checks of referees and trustees, when given in pursuance of payments in bankruptcy proceedings, are exempt from taxation, under provisions of section 17, act June 13, 1898. (T. D. 188; July 27, 1900.)

Certificates of deposit drawn otherwise than at sight or on demand presumed to draw interest, unless affirmative evidence to the contrary appears, and is taxable at the rate of 2 cents for each hundred dollars or fractional part thereof. (T. D. 195; August 8, 1900.)

Checks for circulation:

Checks made for circulation as money, as bank checks, are subject to tax by section 3408, Revised Statutes; and section 3583 makes it a criminal offense to issue checks "for a less sum than $1 intended to circulate as money, or to be received or used in lieu of lawful money of the United States." (T. D. 199; August 15, 1900.)

Checks and drafts imprinted.

Imprinted checks and drafts can not now be returned to the owners after redemption of the stamps thereon. The act of Congress approved February 26, 1902, under the provisions of which imprinted instruments were returned to the owners thereof, authorizes such action only "where said return is demanded within one year after the passage of this act." (T. D. 692; August 27, 1903.)

Chewing gum—Stamp tax.

Removal from stamped packages:

Glass cases, when emptied, may be reused for packing chewing gum, but the stamps first affixed to the packages must be destroyed before the case is reused. (T. D. 20258; October 25, 1898.)

Manufacturers of chewing gum are not privileged to remove the same from stamped packages and repack it in unstamped packages for the use of their salesmen for distribution by them as free samples, or for any other purpose. The removal of samples from stamped packages and placing the same in other packages will be in violation of the object of the statute requiring a stamp, and of section 23, act of June 13, 1898. (T. D. 20369; November 22, 1898.)

Retail dealers are not permitted to remove chewing gum from original packages, bearing stamps, and place same in show cases. (T. D. 19879; August 10, 1898.)

Spruce gum, when intended for sale as a chewing gum, is subject to a tax of 4 cents on each retail dollar's worth, and 4 cents for each additional dollar or fractional part thereof. (T. D. 20371; November 22, 1898.)

Chewing gum—Stamp tax—Continued.

Regulations relative to tax:

In pursuance of Schedule B, section 23, act of June 13, 1898, and with regulations relative to tax on chewing gum, or substitutes therefor, before the same are removed from the factory for sale or consumption, it is held that all chewing gum in the hands of manufacturers or wholesale or retail dealers on the 1st day of July, 1898, is subject to the payment of the stamp tax, but it shall be deemed a compliance with the act, as to such articles on hand in the hands of wholesale or retail dealers, who are not manufacturers thereof, to affix the proper adhesive stamp at the time the packages are sold at retail. (T. D. 19579; June 27, 1898.)

Chinese records—Transfer.

The act of Congress approved February 14, 1903, establishing the Department of Commerce and Labor, provides for the transfer of all records, duplicate certificates, letters, papers, and data of every kind relative to Chinese or Chinese certificates of residence, from the offices of the collectors of internal revenue and the collectors of customs to the Commissioner-General of Immigration in said Department. (T. D. 658; May 5, 1903.)

Claret ice—Special tax.

Special tax is not required of a druggist, as a liquor dealer, for serving a claret ice over his soda-fountain counter, the beverage being composed of one-half ounce claret wine, one-fourth ounce raspberry sirup, one-half ounce plain sirup, 7 ounces shaved ice, and some acid phosphate, the claret wine contained therein being only one-sixteenth of the mixture. (T. D. 480; March 6, 1902.)

Claims—Assignment.

The transfers and assignments of claims upon the Treasury, whether absolute or conditional, are null and void unless made *after* the allowance of the claim, the ascertainment of the amount due, and the issuing of a warrant in payment thereof. (T. D. 276; February 12, 1901.)

Claims—Refund—Stamp tax.

Claims may be made on Form 46 for refund of amounts paid for stamps affixed to articles which have not been removed from place of manufacture or customs bonded warehouse. (T. D. 536; June 18, 1902.)

Claims for rebate of tax on tobacco and snuff, under the act of April 12, 1902, were subject to examination on Form 481, in pursuance of instructions given to collectors by the Commissioner, September 12, 1902. (T. D. 579; September 12, 1902.)

Clubs—Special tax.

Sworn returns:

Where any person conducting business as a retail liquor dealer in the name of a club makes sworn return and pays the special tax, his name, as well as the name of the club, must be entered by the collector in his record No. 10, together with the particular location of the place at which the business is carried on. (T. D. 629; February 16, 1903.)

Circular 636—Special tax.

Confectioners who sell ices to which they have added spirits or wine for flavoring, and which are sold as solids, are not liable to tax as liquor dealers, under the terms of Circular 636. (T. D. 620; January 20, 1903.)

Collateral—Shares of stock.

Shares of stock in any association, company, or corporation, when pledged as collateral to secure the future payment of money, or for the future transfer of

Collateral—Shares of stock—Continued.

any stock, is liable to stamp tax on each hundred dollars of face value or fraction thereof, 2 cents. (See Attorney-General's opinion; January 4, 1902.) (T. D. 457; January 6, 1902.)

Collateral securities, pledges—Stamp tax. (See also Decisions 21152, 21497.)

Collateral securities and instruments, used as security for the payment of money, must be pledged for a definite or certain sum, stated therein, in order to become subject to stamp tax required on promissory notes by the war-revenue act of 1898. (T. D. 20193; Attorney-General's opinion; September 21, 1898.)

Collateral deposited as security for a credit for $10,000 on open account is subject to taxation as a pledge, and but one tax on the original pledge, no matter how many times the loan is borrowed and paid. (T. D. 21044; April 19, 1899.)

Pledge of insurance policy to secure loan not taxable if the amount secured is less than $1,000. If loan exceeds $1,000, it is taxable as a pledge of personal property. Pledge of insurance policy not such an assignment as requires a stamp at the same rate as imposed on the original instrument. (T. D. 19841; August 6, 1898.)

Stamp tax is required on the notes, on the pledge or memorandum of pledge (if the amount secured thereby exceeds $1,000), and on the renewal of the notes; but not again on the pledge, if it remains as at the beginning, without formal renewal. (T. D. 19978; August 30, 1898.)

When certificates of stock or other securities are pledged for a loan, the stamp tax is to be reckoned, not on the face value of the certificates (or securities), but on the amount of money loaned (above $1,000). (T. D. 19736; July 20, 1898.)

Where there is a collateral note secured by a mortgage or by a deed of trust, signed and delivered subsequent to July 1, 1898, but prior to February 28, 1899, only one stamp is required and the taxation of the instrument is governed by the following regulation, viz: If for an amount up to $1,000, as a promissory note only; if for an amount in excess of $1,000, but not exceeding $1,200, as a pledge only; if for an amount in excess of $1,200, but not exceeding $1,500, as a promissory note only; if for an amount exceeding $1,500, as a pledge only. (T. D. 20949; April 1, 1899.)

Certificates used as collateral:

1. Stock certificates, used as collateral on notes, do not require stamps, as in cases of actual transfer, but are to be stamped as a pledge for the amount hypothecated. A new stamp is required on each renewal of the note, but the certificates themselves do not, as collateral, require new stamps.
2. In case of bill of sale, certificates being attached thereto as collateral, it must be regarded as a transfer of the certificates, and the tax of 2 cents on each $100 of face value, or fraction thereof, must be paid and the requisite stamp affixed, but successive renewals of the notes do not require the stamping anew of the certificates.
3. Where long-time notes, dated previous to July 1, 1898, secured by a deed of trust, are used as collateral on commercial paper, the deed of trust and the notes require to be stamped on the basis of the amount for which pledged, but successive renewals do not require to be stamped anew. (T. D. 19685; July 13, 1898.)

Collateral—Loaning money.

Business of loaning money and holding policies of insurance as collateral security for the loan is not that which is ordinarily or usually known as the business of a pawnbroker, and special tax of a pawnbroker is not required to be paid therefor. (T. D. 459; January 10, 1902.)

Collateral—Loaning money—Continued.

Where there is a delivery of stocks, in shares as collateral, to secure the future payment of a definite sum of money, the pledge so made is subject to stamp tax under paragraph 1, Schedule A, act of June 13, 1898. (See opinion of Attorney-General, dated January 4, 1902.) (T. D. 457; January 6, 1902.)

Commercial brokers.

Auctioneers, Merchants, Warehousemen.

A person whose business it is to take orders from stone contractors and place these orders with quarrymen, receiving a commission from the quarrymen on the sales thus negotiated, is required to pay special tax as a commercial broker. (T. D. 20241; October 25, 1898.)

A person engaged in the manufacture of proprietary medicines, which he places upon the market duly stamped, some of which goods are sold outright by the company, and some of which are left with the local agent for sale on commission, is not regarded as a commercial broker. (T. D. 20272; October 31, 1898.)

A person who sells and delivers books on commission is not regarded as a commercial broker, if he receives them into his possession. (Slack *v.* Tucker, 23 Wall., 321.) (T. D. 20295; November 7, 1898.)

Commission merchants, auctioneers, tobacco and cotton warehousemen, and cattle brokers are not commercial brokers. (T. D. 19766; July 27, 1898.)

Leaf-tobacco dealers, who are also engaged in the business of negotiating the purchase of tobacco as agents for others, on commission, are commercial brokers under the fourth paragraph of section 2 of the war-revenue act, and are required to pay special tax accordingly. (T. D. 20592; January 19, 1899.)

Original note or memorandum of sale alone subject to tax of 10 cents, broker to affix stamp; duplicate or copy not taxed, but should state that the original was duly stamped. Memorandum accompanying offer to purchase subject to tax when offer is accepted. (T. D. 19763; July 26, 1898.)

Persons engaged in selling passage tickets for steamship lines are not required to pay special tax as commercial brokers, under the fourth paragraph of section 2 of the war-revenue act, on account of such business. (T. D. 20718; February 14, 1899.)

Persons representing cigar manufacturers who are furnished with samples and send orders to factories, receiving a commission for furnishing orders, are liable as commercial brokers. (T. D. 19575; June 27, 1898.)

Persons who represent several firms and give their entire services to them and sell only from their quotations are liable as commercial brokers, unless they can show that they are under agreement with such firms to act only for them, and are excluded from negotiating purchases or sales for other persons. (T. D. 20168; October 11, 1898.)

Persons who are employed by a coal company as agents to negotiate sales of coal for such company, on commission, are not on this account liable as commercial brokers in the meaning of paragraph 4, section 2, of war-revenue act. (T. D. 20189; October 12, 1898.)

Persons engaged in buying and selling merchandise on a board of trade for present and future delivery, for themselves exclusively and not for others, are not commercial brokers within the meaning of the definition contained in paragraph 4 of section 2 of the act of June 13, 1898. (T. D. 20198; October 14, 1898.)

The Commissioner, modifying all previous rulings inconsistent herewith, holds that persons engaged in negotiating sales of flour for one company, sales of meats for another company, sales of coffee, sugar, etc., for another company, and so on, receiving a commission, are commercial brokers within the meaning of the fourth paragraph of section 2, act of June 13, 1898. (T. D. 20417 December 12, 1898.)

Commercial brokers—Continued.

Auctioneers, Merchants, Warehousemen—Continued.

Warehouse receipts for grain transferred through elevators are liable to special tax under paragraph 4, section 2, act of June 13, 1898. Brokers must pay special tax at branch offices. (T. D. 19615; July 1, 1898.)

Where a dealer in diamonds engages in the business of negotiating sales of diamonds on commission as agent of another person, "on memoranda," without having the diamonds in his possession, he becomes a commercial broker under the fourth paragraph of section 2 of the act of June 13, 1898. (T. D. 20164; October 11, 1898.)

Persons who obtain orders nontaxable:

Persons whose business it is to obtain orders from those who desire to buy goods, and who purchase, receive, and forward the goods to their customers, are not on this account commercial brokers, nor are they required to pay special tax under the act of June 13, 1898, for such business, though they make a profit therein through discounts allowed them by merchants and commissions paid them by their customers. "Installment purchasers," who have running accounts at stores, and give orders to their customers, on which orders these customers themselves buy and receive goods, are required to pay special tax as commercial brokers. (T. D. 19884; August 10, 1898.)

A representative of firms not a commercial broker:

Where a man does not hold himself out as a general merchandise broker, but is employed to represent one, two, or three firms to solicit and receive orders on commission for their goods, and is bound by his agreement with them to give his entire services to them, he is not regarded as a commercial broker within the intent of the law. (T. D. 20117; September 28, 1898.)

Negotiating sales of goods:

A firm negotiating sales of goods not shipped to them nor held in their possession before being sold, but shipped from other points direct to purchasers from the mills, they being liable for all sales and doing their own "billing," making settlements with the mills at the end of each month, retaining a stipulated commission, held to be liable to tax as commercial brokers. (T. D. 19938; August 23, 1898.)

Persons representing several houses in the negotiation of sales of goods on commission (the goods not being in their possession), if they are not bound by agreement to act solely for these houses, but are at liberty to engage in the same transactions for other houses, are commercial brokers, and must pay special tax as such. (T. D. 19966; August 26, 1898.)

Compromise cases.

Authority of the Commissioner:

The authority to compromise internal-revenue cases conferred by and regulated as to procedure under section 3229, Revised Statutes, may be exercised by the Commissioner of Internal Revenue, with the concurrence of the Secretary of the Treasury, and embraces the criminal liability of the defendant. (T. D. 836; October 24, 1904.)

Legal procedure—Criminal liability:

Section 3229, Revised Statutes, expressly provides that any criminal case arising under the internal-revenue laws may be compromised. The right to compromise conferred by this section has always been understood to embrace the criminal liability of the defendant up to the time the sentence is imposed. (13 Op. Atty. Gen., 479.) The Supreme Court in the case of United States *v.* Chouteau (102 U. S., 610) recognized the right. In that case Chouteau had

Compromise cases—Continued.

Legal procedure—Criminal liability—Continued.

been indicted and the prosecution compromised, and it was held that the compromise was a bar to a suit on the bond for penalties. (T. D. 836; October 24, 1904.)

An offer of compromise:

In regard to the settlement of compromise cases in which proceedings are pending before the United States commissioner it is held that, if the party defendant desires to have the case against him settled by payment of the tax, penalty, and costs, it should be treated in the regular way as an offer of compromise. There is no authority for a district attorney or collector to compromise, adjust, or settle any charge or complaint for any violation, or alleged violation, of the internal-revenue law. (T. D. 845; December 9, 1904.)

Conveyances—Real Estate:

Character of conveyances liable to tax:

In construing paragraph 10, Schedule A, act of June 13, 1898, as amended by act of March 2, 1901, it is held that in designating the kind or character of conveyances of realty on which the tax is imposed "sold" is the controlling word therein, as it was in the paragraph before amendment. This is shown by the use of the correlative word "purchaser" immediately following, to whom alone the property can be conveyed and in whom alone it can be vested; or if conveyed to or vested in any other person it must be by *direction of the purchaser*. The words "granted, assigned, and transferred" refer only to the form of conveyance, and not to the manner of acquiring the estate. (T. D. 365; June 21, 1901.)

Conveyances of real estate by joint tenants or by tenants in common for the purpose of making a division are not subject to stamp tax. (T. D. 287; February 16, 1901.)

Date of execution of conveyances:

If a deed conveying realty executed and delivered prior to July 1, 1901, is presented for record after said date it will require a revenue stamp to be attached, according to the law now in force, before the same can be recorded. The date of execution of a conveyance of real property will be presumed to be the date of delivery, unless the contrary is proved. (T. D. 364; June 21, 1901.)

Rate of stamp tax on conveyances:

Regarding the rate of stamp tax on conveyances under the amendatory act of March 2, 1901, it is held that all conveyances, where the consideration or value is $2,500, or less, are exempt from tax, and that amount is to be deducted from the value of all conveyances where the value or consideration exceeds $2,500. (T. D. 382; July 19, 1901.)

"Ground-rent" deeds as conveyances:

A deed of conveyance conveying real estate that lies in countries that are not United States territory is not subject to taxation, though the grantor and grantee may each be citizens and residents of the United States. (T. D. 21562; September 1, 1899.)

A deed from the executor of a deceased person, who held real estate in trust, to the succeeding trustee, is taxable under the war-revenue act. (T. D. 21583; September 5, 1899.)

A stamp tax is not required by the war-revenue law, on a chancellor's decree as a conveyance, in proceedings of strict foreclosure of a mortgage. (T. D. 21853; December 15, 1899.)

Ground-rent deeds, arising out of what is ordinarily termed a "ground-rent system," are liable, under the war-revenue act, to taxation as conveyances and not as leases. (T. D. 21537; August 23, 1899.)

Conveyances—Real estate—Continued.

Conveyances made by master commissioner, taxable:

The commissioner reaffirms the decision of the United States circuit court, southern district of Iowa, December 22, 1898, to the effect that the fact that a conveyance is made by a master commissioner under a decree of foreclosure in which the priority of liens is considered and settled, and after competitive sale, does not affect the requirement that the instrument, being a "conveyance of reality," under Schedule A of the revenue law (Laws 55th Cong., 2d sess., c. 448), shall have the required revenue stamps affixed, to be receivable for record. (T. D. 20952; April 4, 1899.)

The conveyance of a mine located on unpatented land is subject to taxation. (T. D. 20986; April 10, 1899.)

Conveyances from a husband to a third party, and from said third party to the wife of original grantor, to operate as a gift to the wife, are each taxable; tax based on value of real estate passing by the conveyances. (T. D. 21108; May 6, 1899.)

Deeds of conveyance executed by and between tenants in common not taxable. Deeds of conveyance executed by and between joint tenants taxable. (T. D. 21283; June 20, 1899.)

Conveyances—Stamp tax. (See also Mortgages.)

A deed placed in escrow is not subject to taxation until all the conditions have been complied with in the matter. (T. D. 20096; September 26, 1898.)

A quitclaim deed is taxable according to the value of the property interest thereby conveyed. (T. D. 20232; October 22, 1898.)

Contracts for the sale of land are taxable if they convey title. If, however, they provide for only the future delivery of a deed they are not taxable. (T. D. 20310; November 9, 1898.)

Deeds of conveyance, deeds conveying an undivided interest, deeds of re-lease, and quitclaim deeds are subject to stamp tax computed upon the true value of the property conveyed. (T. D. 19839; August 5, 1898.)

Deeds made by a master in chancery are subject to stamp tax. (T. D. 20311; November 9, 1898.)

The referee in foreclosure proceedings is required to affix an internal-revenue stamp to the referee's deed delivered to the purchaser. (See decision of the supreme court of New York, special term, January, 1899.) (T. D. 20794; March 7, 1899.)

When a partition deed is operative in defining boundary lines or in showing by location each tenant in common's interest, no tax accrues. (T. D. 20792; March 6, 1899.)

Deeds for pews in churches in States where, by statute, pews are made personal property are not required to be stamped under act of June 13, 1898. (T. D. 20636; January 26, 1899.)

A warranty deed, with vendor's lien, is taxable as a conveyance of land. A mortgage tax is not imposed. (T. D. 20320; November 11, 1898.)

The words of purchase in the paragraph of the law relating to stamps on conveyances include all changes of title, except those occurring by descent or operation of law. (T. D. 20195; October 13, 1898.)

If a deed does not grant, assign, transfer, or convey to the purchaser any lands, tenements, or other realty, but only the right to burial, to erect monuments, etc., it does not require a stamp. (T. D. 19838; April 5, 1898.)

A certified contract taxable:

A contract for a deed, used in selling real estate, is not subject to a stamp tax, unless the State law requires that the party executing said contract shall

Conveyances—Stamp tax—Continued.

A certified contract taxable—Continued.

acknowledge his signature before an officer having a seal. Such a certificate would require a 10-cent stamp. (T. D. 20065; September 16, 1898.)

Deeds of conveyance in Georgia, executed under the provisions of section 1970 of the Georgia Code of 1882, are not taxable under act of June 13, 1898. (T. D. 85; March 30, 1900.)

When instruments convey standing or cut timber they are not taxable as conveyances. If under them the grantee acquires the use of the real estate for the purpose of erecting sawmills, etc., the document is taxable under the paragraph in Schedule A relating to leases, etc. (T. D. 75; March 16, 1900.)

Curing defective stamping:

The action of collector in stamping the instrument under section 13, act of June 13, 1898, cures the defect and operates retroactively. Decision of the court of appeals of Maryland, overruling decision of Judge Stake published in Treasury Decisions, internal revenue, No. 53, March 1, 1900. (T. D. 164; June 27, 1900.)

Gifts and conveyances by deed:

Conveyances made by a husband to a wife, or a conveyance made by a party as a gift to a benevolent institution, in each of which the consideration is $1, are not taxable. If, however, a party sells real estate to another party, or exchanges real estate, or passes title to real estate for a valuable consideration, the deed of conveyance is taxable. (See circular No. 555.) (T. D. 172; July 3, 1900.)

Purpose of war-revenue law as to conveyances:

The clear purpose of the war-revenue act, relating to conveyances, is to take away from transfers and assignments any probative character and to render them of no legal effect or validity until subsequently stamped in compliance with the provisions of the act. The subsequent stamping is to be taken as imparting legal validity from only that point of time. (See decision of Judge Stake, of the fourth judicial circuit of Maryland.) (T. D. 53; March 1, 1900.)

Stamp tax under Schedule A, war-revenue law:

Commissioner's ruling as to stamp tax on conveyances of real property under Schedule A of the war-revenue act, holds it is only upon conveyances of "realty sold" that conveyance stamps are required—that is, upon conveyances where a valuable consideration either passes, or has passed, or is to pass, between grantee and grantor. (See Internal Revenue Circular No. 555.) (T. D. 66; March 9, 1900.)

No tax is required on conveyances of realty by executors to trustee without a valuable consideration. (T. D. 67; March 9, 1900.)

Conveyances prior to July 1, 1898, not taxable:

Deeds of conveyance, mortgages, and assignments of mortgages, executed and delivered prior to July 1, 1898, and not presented for record until subsequent to that time, are not taxable. Attention called to the tax on these instruments when issued between September 1, 1862, and October 1, 1872, and the recordation of these documents when not stamped. (T. D. 196; August 9, 1900.)

Maryland "ground" rental taxable as assignment of lease:

Deeds of partition exected by and between tenants in common, vesting title in severalty, are not taxable. If a grantee acquires an amount of real estate in excess of his share, the deed vesting title in him is taxable on a basis of the value of said excess amount. (T. D. 50; February 27, 1900.)

Conveyances—Stamp tax—Continued.

Maryland "ground" rental taxable as assignment of lease—Continued.

Notices of mining locations are not taxable, but deeds or conveyances of mines are subject to stamp tax under war-revenue law. (T. D. 222; October 8, 1900.)

The form of deed used in Maryland in ground-rent conveyancing is taxable as the assignment of a lease rather than as a deed of conveyance, inasmuch as the relationship of landlord and tenant is created under the instrument. The instrument is taxable under the paragraph in Schedule A relating to leases; and in this particular Treasury decision 21537 is reversed. (T. D. 200; August 16, 1900.)

Estates in custodia legis not taxable:

Conveyances of realty to trustees or by trustees, without a valuable consideration, are not taxable. (T. D. 52; February 28, 1900.)

Decision of United States court, so construing the clause in Schedule A, act of June 13, 1898, as to show that stamp tax is not required on conveyances of estates *in custodia legis*, made by decree of court, for the purpose and convenience of judicial administration, affecting the duties of receivers, there being no valuable consideration passed between the receiver and the grantors. Such transfers do not come within the purview of sales and purchases. (T. D. 51; February 27, 1900.)

Stamp tax governed by actual consideration:

The stamp tax assessed upon conveyances of realty is determined by the amount of consideration stated in the conveyance, or by the actual consideration as ascertained by competent evidence. (T. D. 487; March 15, 1902.)

Court decisions.

Apple juice mixed with spirituous liquors—Special tax:

In the case of United States *v.* Lewis, in the district court for the southern district of Illinois, involving special tax on apple juice mixed with spirituous liquors, the court charged the jury, saying: "The law, as held by the courts and as construed by the Department, is that cider is the fruit of the apple. If you believe from the evidence in this case beyond a reasonable doubt that the sales made by this defendant were simply of the fruit of the apple, or of the fruit of the apple flavored by any other fruit juice, then you will find the defendant not guilty, regardless of whether or not that cider by fermentation became an intoxicant. On the other hand, if you believe from the evidence beyond a reasonable doubt that the beverage sold by the defendant was the juice of the apple mixed with spirituous liquors, then it was what the law calls a compound liquor, and the sale without a tax stamp would be actionable, and you will find the defendant guilty, regardless of whether or not the beverage was intoxicating or not." (T. D. 801; June 21, 1904.)

Bank tax—Undivided profits:

The United States court of appeals, second circuit, in a suit brought for recovery of tax on the undivided profits of a bank, held that, when the surplus or undivided profits are ordinarily used by the corporation as supplementary capital and "when it appears, as it does in the present case, that the undivided profits have been carried over many dividend periods and have been accumulated 'during a period of years,' and have in the meantime been used in the business like the other assets of the corporation, the inference is irresistible that they have become an accretion to the capital. When this appears, they are taxable, just as the accumulated profits of an individual are taxable when they have been merged with his capital." (T. D. 750; February 9, 1904.)

Court decisions—Continued.

Legacy tax—Vested or contingent interests:

The United States circuit court for the eastern district of Pennsylvania holds, relative to legacy tax, that where property is bequeathed to trustees the net income therefrom to be paid to the testator's widow for life, and upon her death remainder over to the testator's children then living and lawful issue of deceased children, it is held "that the remainder to the testator's descendants was vested and not contingent, and, therefore, that the tax was properly levied." (T. D. 744; January 25, 1904.)

Stamp tax—Voluntary payment:

The Supreme Court of the United States, in a suit brought to recover money paid voluntarily for internal-revenue documentary stamps, held that a recovery can not be had of taxes that have been paid voluntarily with full knowledge of all the circumstances, and without any coercion by the actual or threatened exercise of power possessed, or supposed to be possessed, by the party executing or receiving the payment, from the person or property of the person making the payment, from which the latter has no other means of immediate relief than such payment. (T. D. 747; February 3, 1904.)

Stamp tax—Stock transactions:

Where a company was engaged in stock transactions under the third subdivision of Schedule A, act of June 13, 1898, as amended by the act of March 2, 1901, and received and executed orders from correspondents, it was required by the statute to pay stamp tax on its written memorandum of each of these transactions, notwithstanding the fact that its correspondents (brokers) in their transactions with their customers, on which they transmitted the orders to such company, had themselves issued a written memorandum to each customer for each transaction and paid stamp tax thereon. (Ruling 345 in Treasury Decisions, 1901, vol. 4, p. 132, is thus sustained.) (T. D. 774; April 12, 1904.)

War-revenue tax—Sale of stocks:

Decision of United States Supreme Court in Thomas *v.* United States, sustaining the constitutionality of the stamp tax on sales or memoranda of sales of stock, imposed under the war-revenue act, and affirming decision of United States circuit court (T. D. 468). This is not a direct tax. (T. D. 758; March 5, 1904.)

Excise tax on refining sugar—Decision of United States Supreme Court:

Jurisdiction.—The judgment of the circuit court of appeals is not final, within the meaning of the sixth section (judiciary act of March 3, 1891), in a case which, although arising under a law providing for internal revenue and involving the construction of that law, is yet a case involving from the outset, from the plaintiff's showing, the construction or application of the Constitution or the constitutionality of an act of Congress.

Constitutionality of the act.—The tax imposed by the war-revenue act on the business of refining sugar is an excise and not a direct tax, and the act imposing the same is constitutional.

Receipts.—Receipts from wharves used in connection with the business of refining sugar come within the taxing provisions of the act. Interest on funds deposited in bank, and dividends received on stocks of other corporations, are not subject to the tax. The tax was imposed only upon receipts in the business of refining sugar, not receipts from independent sources. (T. D. 760; March 8, 1904.)

Court decisions—Continued.

Distilled spirits—Forfeiture:

Decision of Judge Amidon, United States district court, eastern district of Missouri, in the case of United States *v.* Three Packages of Distilled Spirits, A. Graf & Co., claimants. The addition to packages of double-stamped spirits of burnt sugar, caramel, or other materials constitutes a violation of section 3455, Revised Statutes, and renders the goods liable to forfeiture. (T. D. 701; September 26, 1903.)

Legacy tax—Personal property in trust:

In the case of personal property held in trust to the use of testator's children, such interests, however, only to become "absolutely vested in such of them as shall then have attained, or as shall thereafter live to attain, the age of 25 years," *Held* that such personal property vested immediately and absolutely upon the death of the testator in the trustee, in trust, unaffected by any contingency whatever, and so is not exempt under the provisions of the act of June 27, 1902. The courts always vest a legacy at once, if it can reasonably be done. A real estate mortgaged indebtedness, assumed by the testator as mortgagee, held to be a legal debt and expense to be paid from the personalty. (T. D. 764; March 15, 1904.)

Legacy tax—Vested and contingent interests:

Departmental construction of the will as giving a life estate instead of an annuity to the daughters of the testator sustained. The remainder interest given to the daughters, of which the widow had a life use, held to be vested and not contingent. (T. D. 763; March 14, 1904.)

Legacy tax—Son-in-law, stranger in blood:

The United States circuit court, southern district of New York, held, in King et al., executors, etc., *v.* Eidman, collector, etc., relative to the legacy tax due from a legacy to a son-in-law, that, unless the son-in-law is a blood relation of his father-in-law, the legacy tax was correctly assessed. (T. D. 719; November 21, 1903.)

Oleomargarine—Opinion of Supreme Court in the palm-oil case:

One of the purposes of the oleomargarine legislation was to prevent the sale of oleomargarine as and for butter. When any substance, although named as a possible ingredient of oleomargarine, serves only the function of coloring the mass so as to cause it to "look like butter of any shade of yellow," it is an artificial coloration, and the product is subject to a tax of 10 cents per pound. (T. D. 839; October 28, 1904).

Oleomargarine—Supreme Court decision in McCray v. United States:

The law imposing a tax of 10 cents a pound on oleomargarine artificially colored in imitation of butter and one-fourth of 1 cent per pound on uncolored oleomargarine is constitutional. The courts can not hold a tax void because it is deemed too high. Although the effect of the tax in question may be to repress the manufacture of artificially colored oleomargarine, it is not on that account a violation of fundamental rights. An act of Congress exerting the taxing power can not be avoided on the ground that it is an abuse of power. Whilst the statute recognized the right of a manufacturer to use any or all of the authorized ingredients so as to make oleomargarine, and also authorized as one of the ingredients butter artificially colored, if the manufacturer elected to use such ingredient last mentioned, and thereby gave to his manufactured product artificial coloration, such product so colored, although being oleomargarine, was not within the exception created by the proviso, and therefore came under the general rule subjecting oleomargarine to the tax of 10 cents a pound. (T. D. 795; June 4, 1904.)

Court decisions—Continued.

Oleomargarine—Waiver of jury—Supreme Court decision:

It is not a constitutional requirement that the trial of petty criminal offenses should be by a jury. There is no public policy which forbids the waiver of a jury in the trial of petty offenses. A jury may be waived where parties are prosecuted by information under section 11, act of August 2, 1886 (24 Stat., 209), which reads: "That every person who knowingly purchases or receives for sale any oleomargarine which has not been branded or stamped according to law shall be liable to a penalty of fifty dollars for each such offense." (T. D. 802; June 28, 1904.)

Shipping liquors under false brands:

The United States circuit court of appeals (Judge Goff), in the case of United States *v.* Twenty Boxes of Corn Whisky, holds that the law was intended to prevent the removal of liquors under a false brand. It does not forbid a shipment without any designation whatever. Bottled whisky shipped in boxes is not forfeited on account of being labeled "Glass; this side up, with care." That is merely a caution addressed to the carrier and not a designation of the contents of the packages. The statute applies only to distillers, rectifiers, brewers, manufacturers of wine, and wholesale dealers in spirituous and fermented liquors or wines. (T. D. 844; November 28, 1904.)

South Carolina dispensary—Special tax:

The State of South Carolina, in carrying on the business of its dispensary system, is not exempt from payment of special tax. The police power extends no further than the general welfare. When a State engages in commercial business for a profit, it can not claim exemption from taxation on the principle that it is a tax on the instrumentalities of the State government. The exemptions of sovereignty extend no further than the attributes of sovereignty. (T. D. 759; March 8, 1904.)

Stamp tax on sales of stock:

Bucket-shop transactions, under paragraph 3 of section 8, act of March 2, 1901, amending the act of June 13, 1898.—Duty of persons conducting such business to give to parties with whom trades or transactions are had the stamped memoranda specified in said act. It is immaterial whether the defendant was conducting business solely for himself or as agent. In either case he is guilty.—T. D. 345 sustained. (T. D. 627; February 14, 1903.)

Legacy tax:

Property passing from testator by will through executors to themselves as trustees to hold "in trust" for beneficiaries is taxable. The assessment is not laid upon the beneficiaries personally, but upon the property; not as it reaches them, but in cases like this, as it goes to the trustees for them. Knowlton *v.* Moore (178 U. S., 41). (T. D. 618; January 17, 1903.)

Legacy to a municipal corporation:

A legacy in Government bonds to the city of Springfield, Ohio, the principal of which by the terms of the will was to be kept permanently invested and the income to be expended in the maintenance and improvement of a public park of the city, was taxable under the war-revenue law. The tax is not regarded as a tax upon the municipality. Congress has the power to tax the transmission of property by legacy to States or their municipalities. Such taxes are not upon property, but upon the right to succeed to property. (See decision of Supreme Court of the United States, June 1, 1903.) (T. D. 666; June 9, 1903.)

Court decisions—Continued.

Official records—Testimony of collectors:

In re Lamberton—habeas corpus—the district court of the United States for western district of Arkansas held that collectors and deputy collectors are not only prohibited from giving out copies from their records, but also from testifying orally, in cases not arising under the laws of the United States, as to facts that have come to their knowledge as the result of information contained in the records. (T. D. 689; August 8, 1903.)

Stamp tax on export bills of lading unconstitutional:

The Supreme Court of the United States, in the case of Frank M. Fairbank, plaintiff in error, district of Minnesota, holds that a stamp tax on export bills of lading is unconstitutional, the requirement of the constitution being that exports should be free from any governmental burden. (T. D. 339; May 7, 1901.)

Regulations, as to marking oleomargarine packages:

The United States circuit court of appeals, for the third circuit, declares, relative to indictments against parties charged with violations of the oleomargarine laws, that the regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, in regard to marks and brands on packages of oleomargarine, are authorized by law. The provisions of section 6, act of August 2, 1886, are within the constitutional power of Congress. Where the indictment, under that section, charged that the defendant unlawfully packed, unlawfully sold, and unlawfully delivered oleomargarine, and the question being whether the counts contained enough to describe the offense punishable under the section, it was held that the counts were sufficient. (T. D. 335; April 27, 1901.)

The United States circuit court of appeals for tbe third district, March term, 1901, holds, as to legacy, that personal estate, passing by the intestate laws, or by will, passes from the testator, and not from the administrator, executor, or trustee; therefore, no tax accrues on legacies where testator died prior to June 13, 1898. (T. D. 343; May 9, 1901.)

Where receivers and assignees, upon orders issued to them by any court, make sales in compliance with such mandates in discharge of the duties imposed upon them by the law, they are not required to pay special tax under the internal-revenue laws of the United States on account of such sales. (T. D 316; March 30, 1901.)

"Calls" taxable as "agreements" to sell stocks:

The Supreme Court of the United States, on an appeal from the United States circuit court for the second circuit, decides that a "call" upon shares of stock on the New York Stock Exchange is an "agreement to sell," under the provisions of section 25, Schedule A, war-revenue law, and is taxable as such. (T. D. 338; May 4, 1901.)

Section 27, war-revenue act, held constitutional:

The United States circuit court, October sessions, 1900, in an opinion relative to the constitutionality of section 27, of the war-revenue act, so far as sugar refiners are concerned, holds that said section, imposing a tax on gross annual receipts of sugar refiners, exceeding $250,000, is constitutional. The tax is assessable monthly. Moneys earned before the passage of the act, although received after, are not taxable. Interest received from corporate funds, either deposited in bank or invested in income-producing securities, properly included in determining the annual value of the business. Receipts from capital invested in wharves taxable; receipts from stevedoring were improperly included in taxable receipts. (T. D. 350; May 25, 1901.)

Court decisions—Continued.

A legacy in Government bonds taxable:

A decision of the United States circuit court for the southern district of Ohio, western division, relating to a legacy tax, declares that a legacy in Government bonds to a municipal corporation, the principal of which is to be invested and the income to be expended in the maintenance and improvement of the public park of a city, is taxable on the ground that the tax is not levied upon the property, but that a duty or charge is levied upon the testator's estate for the privilege of transmitting the legacy to the city. (T. D. 454; December 30, 1901.)

Patent medicines, advertised as "remedies," taxable:

Decision of United States circuit court in the case of J. Ellwood Lee Company *v.* P. A. McClain, collector. Plasters put up in style or manner similar to that of patent, trade-mark, or proprietary medicines in general, and advertised as remedies, or as having a special claim to merit, are subject to stamp tax, under Schedule B, act of June 13, 1898. The word "compounded" in section 20 of the act is not employed in a peculiar or technical sense, but is used in its ordinary sense. (T. D. 268; January 21, 1901.)

The United States circuit court of appeals for the ninth circuit, relative to offerings for sale of liquors and special tax thereon, holds that goods are offered for sale at the place where they are kept for sale and where a sale may be effected. They are not offered for sale elsewhere by sending abroad an agent with samples, or by establishing an office for the purpose of taking orders. (T. D. 310; March 25, 1901.)

Coupons.

Coupons in manufacturers' packages:

The regulations concerning the contents of packages of cigars allow manufacturers to place within their statutory packages containing cigars small advertising cards, coupons, certificates, etc., which do not materially increase the weight of the contents or the size of the packages, and which are intended as an advertisement of the business of the manufacturer, and concerning the manufacture and sale of his cigars and no other business. (T. D. 572; April 27, 1902.)

Cards and certificates in statutory packages:

Small cards, coupons, and certificates, not materially increasing the weight of the package, and intended as an advertisement of the business of a manufacturer, and which concern the manufacture and sale of his snuff and no other business, may be placed in a statutory package. Such cards may be returned to the manufacturer in exchange for other articles, where their distribution does not depend upon the event of a lottery. (T. D. 573; August 2, 1902.)

Construction of section 10, act of 1897:

Section 10, act of July 24, 1897, which prohibits packages of smoking tobacco, fine-cut chewing tobacco, and cigarettes from having packed in or attached to or connected with them "any article or thing whatsoever" of a foreign nature, and provides that there shall not be affixed to or branded, stamped, marked, written, or printed upon said packages or their contents, any promise or offer, or any order or certificate for any gift, prize, premium, or reward, is constitutional. Coupons, as described, are within the prohibition.

Under the rules respecting the certification of questions by the court of appeals to the Supreme Court, the court declined to give an opinion upon the section of the statutes which provides for forfeiture. (T. D. 525; May 21, 1902.)

Custom-house brokers—Special tax.

Tax due from custom-house brokers:

Custom-house brokers are required to pay a special tax of $10, and take out the requisite stamp for each place in which they do business. The first clause of section 3235, Revised Statutes, applies to every business for which special tax is required to be paid, whether under old laws or under the war-revenue law of 1898. (T. D. 19576; June 27, 1898.)

Custom-house brokers defined:

A special-tax stamp taken out by a person in his own name as a custom-house broker is sufficient to cover the business done by him in his own name, at the place of business stated therein, whether such business is done by him on his own account or as an agent for other persons. (T. D. 20206; October 19, 1898.)

Bills of sale of vessel property are "custom-house papers" in contemplation of the statute, and a person "whose occupation it is, as the agent of others," to prepare such bills of sale is required to pay special tax as a custom-house broker. (T. D. 20321; November 12, 1898.)

Persons who hold themselves out as custom-house brokers; firms known as agents of steamship lines to which merchandise is consigned for exportation; agents who pass "entries," orders of appraisement, and other papers connected with baggage and merchandise, and to whom bills of lading are intrusted; sales agents of certain factories, and attorneys in fact of manufacturers, receiving merchandise, making entries, and giving bonds to produce owner's oath; persons and firms engaged in preparing manifests, etc., executed by masters of vessels, must pay special tax as custom-house brokers. (T. D. 20033; September 13, 1898.)

Payment of special tax as commercial brokers does not relieve persons who act as the agents of others to arrange entries and other custom-house papers from special tax as custom-house brokers. (T. D. 20595; January 19, 1899.)

Persons whose occupation it is, as agents for others, to enter and clear vessels at the custom-house, can not be relieved from payment of special tax as custom-house brokers on the ground that they have paid special tax as commercial brokers, which entitles them "to negotiate freights or other business for the owners of vessels." (T. D. 21562; February 20, 1899.)

Custom-house papers. (See also Decision 19709, p. 211.)

Certificates of delivery of bonded goods and other certificates required by customs regulations should have affixed thereto the 10-cent stamp under the provision of Schedule A for "Certificate of any description required by law not otherwise specified in this act." (T. D. 19605; June 29, 1898.)

Warehousing bonds, penal bonds, transportation bonds, exportation bonds, tea bonds, invoice bonds, owners' oath bonds, bonds for certificate of exportation—all required under customs regulations—must have affixed thereto the 50-cent stamp under that provision of Schedule A of the act of June 13, 1898, relating to "all other bonds of any description, except such as may be required in legal proceedings."

D.

Dealers and rectifiers—Special tax.

A beverage made of the juice of apples, even though by fermentation it develops "an alcoholic strength of 7 or 8 per cent," or more, does not on this account become a liquor for the sale of which the internal-revenue laws require special tax to be paid. (T. D. 27; January 29, 1900.)

Dealers and rectifiers—Special tax—Continued.

A beverage called crême de menthe being a compound of distilled spirits with other materials, every person manufacturing it for sale and selling it becomes liable as a rectifier. (T. D. 33; February 3, 1900.)

Sale of warehouse whisky certificates:

A brewer, taking warehouse certificates for whisky in bond as security for or in payment of a debt, and selling these certificates in the manner provided in the exempting provision of section 4, act of March 1, 1879, and not being otherwise a liquor dealer, is not required to pay special tax as a wholesale liquor dealer on account of such sale. (T. D. 35; February 7, 1900.)

Imitation fruit juices—Special tax:

Imitation "fruit juices" made of acids and sweetening, and flavored to resemble fruit juice, do not come under the internal-revenue laws, if they do not contain any noticeable percentage of alcohol. If, however, they are found to contain a perceptible quantity of alcohol, whether this is present through fermentation or the addition of spirits or other alcoholic liquor (wine), dealers therein involve themselves in special-tax liability as liquor dealers under the internal-revenue laws. (T. D. 38; February 8, 1900.)

Manufacture of wood alcohol:

The special tax of a liquor dealer, under the internal-revenue laws of the United States, is not required to be paid for the sale of wood alcohol, if it is the product solely of the destructive distillation of wood, entirely free from admixture with distilled spirits, as defined by section 3248, Revised Statutes, or with other alcoholic liquor. (T. D. 43; February 16, 1900.)

The special tax of a rectifier is not required to be paid for the manufacture for sale, nor the special tax of a liquor dealer for selling, extracts and essences, such as peppermint, wintergreen, and Jamaica ginger, even though they contain a large percentage of alcohol, if they are the ordinary extracts or essences known to the legitimate grocery or drug trade as household articles for use in culinary and other preparations. (T. D. 42; February 14, 1900.)

Transferring packages of spirits:

A person who holds special-tax stamps as a rectifier and retail liquor dealer is not required to pay special tax as a wholesale liquor dealer for transferring packages of spirits from his possession as a rectifier into his possession as a retail liquor dealer; but every such transfer must be entered in his record, Form 52, in strict compliance with section 3318, Revised Statutes. (T. D. 44; February 16, 1900.)

Deeds—Stamp tax.

Deeds from building and loan associations:

A deed conveying, from a building and loan association real property, owned by such an association, to a person who is not a shareholder nor a member thereof, is taxable at the same rate as any other conveyance of real property. (T. D. 285; February 15, 1901.)

Joint conveyances:

Where persons own land jointly, or in common, and make conveyance to each other so that each shall thereafter own his share in severalty, there is no conveyance of lands sold within the meaning of the statute, and no stamp tax accrues on such deeds. Any former rulings of this office inconsistent herewith are hereby revoked. (T. D. 287; February 16, 1901.)

Deliveries of stock—Stamp tax.

Memorandum used in delivering stock as security for the future payment of money printed on an envelope, or any similar memorandum, requires a stamp under the Attorney-General's decision (T. D. 457). (T. D. 473; February 8, 1902.)

Ruling that a memorandum used in delivery of stock as security for the future payment of money printed on an envelope, or any similar memorandum, requires a stamp, adhered to. Request for reconsideration and reversal of decision of February 8, 1902 (T. D. 473), refused. Secretary of the Treasury requested to refer the question to the Attorney-General for an opinion. (T. D. 501; April 14, 1902.)

Distiller's bond—Liability.

As held by the United States district court for the eastern district of North Carolina, the distiller's annual bond is liable for the tax on spirits removed from warehouse without payment of tax. (T. D. 753; February 27, 1904.)

Distiller's bonded sureties.

The Commissioner presumes that there is no question that a surety on a distiller's bond can claim whatever homestead exemption is allowed him under the laws of the State in which he resides. The oath taken by the individual surety is to the effect that he is worth, at least, the amount of the bond over and above property exempt from execution under the homestead laws of the State. If bonds of this class are taken, signed by sureties who have sworn falsely, and, by reason of such false statement, the bonds are worthless, such surety should be prosecuted criminally. (T. D. 816; August 23, 1904.)

Distraint.

Collection of tax by distraint:

While section 3251, Revised Statutes, does not declare that the failure to assess shall invalidate the proceedings taken to enforce the collection by distraint without assessment, it is deemed better to adopt the course suggested in section 3293, Revised Statutes amended, and have the distraint follow assessment, particularly as real estate is involved, the title to which might possibly be invalidated by the omission of one of the requirements of the statute. (T. D. 832; October 6, 1904.)

Salaries, fees, commissions, etc.:

No fees or commissions to be retained by collectors are to be collected upon sale of property under seizure or on warrants of distraint. Allowances to collectors for salary and office expenses are in lieu of salary and commissions provided for prior to the enactment of section 3148, Revised Statutes. (T. D. 770; April 1, 1904.)

Distraint sale.

In view of the ruling of the Comptroller of the Treasury, construing sections 3187–3195, Revised Statutes, as to surplus proceeds from distraint sales, in cases where the collector is entirely satisfied as to the identity of the person legally entitled to receive the surplus, he will, of course, return it to such person or firm. In cases, however, where there is any doubt upon this point, the collector will comply literally with the statute and make the deposit to the credit of the Treasurer of the United States. (T. D. 390; July 29, 1901.)

Collectors are cautioned against incurring unnecessary expenses for advertising in connection with seizures for violation of law or under distraint made under any section of the statutes. (T. D. 273; February 5, 1901.)

Distiller's sale—Special tax.

Sale of whisky bought in bond:

Where a distiller has sold to another his distillery property and all the whisky in the bonded warehouse, he can not, by continuing to make an annual distiller's bond and authorizing the sale of the whisky in bond in his name, relieve the purchaser from special tax as a wholesale liquor dealer for selling the whisky that has become his property. Such a case can not be brought within the exemption of the statute. (T. D. 664; May 23, 1903.)

Distilled spirits.

Introduction of caraway seed:

The introduction into the still by a fruit distiller of caraway seed as a flavoring material at the time of distillation is not permissible. The process is held to constitute rectification. (T. D. 810; July 16, 1904.)

The use of case stamps:

Collectors should ascertain whether applicants are eligible to use the case stamps, for which requisitions are made, before forwarding orders on Form 403. (T.D. 781; April 26, 1904.

Warehouse certificates:

The Government has no responsibility for the issuance and sale of warehouse certificates for whisky distillers. (T. D. 752; February 26, 1904.)

Branding original packages:

Distilled spirits contained in original packages or bottled in bond are required to be marked, branded, and stamped, showing the names of the distiller and of the district, in order that their identity as domestic articles may be established. (T. D. 286; February 15, 1901.)

Distillers' original packages:

The regulations permitting the reduction of distilled spirits in distillers' original packages, in certain cases, by the simple addition of water, to a proof not less than 90 per cent (pages 182 to 185, No. 7, revised), are hereby extended so as to apply to such packages after they have been removed tax-paid and are still in the possession of the distiller at his free warehouse. (T. D. 748; February 3, 1904.)

Distilled spirits in bond:

The act of January 13, 1903, amendatory of the internal-revenue law of March 3, 1899, provides that "all distilled spirits in internal-revenue bonded warehouses, or which may hereafter be produced and deposited in such warehouses, shall be entitled to the same allowance for loss from leakage or evaporation which now exists in favor of distilled spirits produced, gauged, and so deposited prior to January first, eighteen hundred and ninety-nine, and subject to the same conditions and limitations." (T. D. 617; January 17, 1903.)

Domestic spirits shipped to Philippine Islands:

Domestic distilled spirits shipped from the United States to the Philippine Islands, in bond, or with benefit of drawback (act March 8, 1902), are nevertheless subject under paragraph 308 of the Philippine tariff law of September 17, 1901, to the duty therein imposed. (T. D. 837; October 25, 1904.)

Forfeiture:

When coloring matter is introduced into packages of whisky, double stamped, it is held subject to forfeiture under section 3455, Revised Statutes. The package is also liable to forfeiture under section 3289, unless the contents are covered by a rectifier's stamp. (T. D. 800; June 15, 1904.)

Distilled spirits—Continued.

Distillery transfer:

Where a distiller makes over to his son his distillery and the distilled spirits therein, he does not thereby become involved in special-tax liability as a wholesale liquor dealer. (T. D. 767; October 2, 1903.)

Inspecting shipments from Porto Rico:

As to shipments of rum from Porto Rico to the United States in bottles, so packed as not to admit of affixing tax-paid stamps thereto. The owner or consignee, upon the arrival of such spirits, should give notice of the fact, whereupon the spirits should be inspected and entered for removal, as in the case of spirits received in original packages. (T. D. 430; November 2, 1901.)

Collectors are required to report to the Commissioner the quantity of tax-paid spirits of the different kinds known to the trade held by wholesale and retail dealers and rectifiers, October 1, 1901. (T. D. 397; August 7, 1901.)

Peddling alcoholic liquors prohibited:

The internal-revenue laws do not contemplate the peddling of alcoholic liquors, nor permit the issuance of any special-tax stamp to cover such peddling. Any person found traveling from place to place selling and delivering alcoholic liquor should be reported for prosecution for selling liquor at some particular point on his route at which there is evidence of his having sold without payment of the special tax at that place, and not as a peddler. (T. D. 584; September 24, 1902.)

Soda water drinks, with distilled spirits added:

Collectors are notified that on and after January 1, 1903, the special tax of a retail liquor dealer is required to be paid by every person who sells or offers for sale any soda-water drinks or other beverages to which is added distilled spirits or wine (the fermented juice of small fruit) or any compound thereof. (T. D. 602; December 15, 1902.)

Tax-paid stamps:

When tax-paid stamps are issued by the collector, to be placed upon packages of spirits in distiller's warehouse, the collector should issue his order to the storekeeper in charge for delivery of the spirits. Spirits should not remain in warehouse or on the distillery premises after the tax-paid stamps have been affixed. Collector not to refuse to deliver stamps to distiller paying the tax. (T. D. 765; March 18, 1904.)

The use of shipping tags:

The use of a shipping tag tacked over the stamp on a package of distilled spirits is forbidden, although it does not cover up the entire stamp. (T. D. 772; April 9, 1904.)

Warehouse certificates:

The Government of the United States has no responsibility whatever for the issuance and sale of warehouse certificates for whisky by distillers, the certificates are not issued under the internal-revenue laws, or any other laws of the United States, and purchasers thereof have no recourse against the United States. (T. D. 752; February 26, 1904.)

Use of caraway seed:

As caraway seed contains no spirit-producing properties, and its use is solely to impart a flavor by incorporating the vapor containing the flavor with the vapor from the distilled fruit, which flavor remains incorporated when the manufacture is complete, the process is held to be the production of an imitation or compound liquor, which process is defined by the statute as rectification, and therefore not permissible in the distillery. (T. D. 810; July 16, 1904.)

Distilled spirits—Continued.

Name known to the trade:

Alcohol which has been refined at a rectifying house and reduced from 188 to 120 per cent can properly be branded "alcohol," as indicating the name of the spirits known to the trade, if it be of high proof and for domestic consumption. (T. D. 790; May 21, 1904.)

Distilled spirits from grain:

Collectors should exercise great care in segregating, in their returns, the amounts derived, respectively, from spirits distilled from fruits, and spirits distilled from grain and materials other than fruit. This is an essential requirement to render the records of the Commissioner's office complete (T. D. 565; August 13, 1902.)

Distillery warehouse visits.

Collectors are advised that distillery warehouses that are under the care of general storekeepers and gaugers should be visited monthly instead of as occasion demands, for the purpose of making withdrawals. Such monthly visits will greatly safeguard the spirits stored in such warehouses, and in case of theft or other illegal removal of the spirits from the warehouse the guilty persons will be more liable to be apprehended than if the visits to such warehouses are made at longer intervals. (T. D. 461; January 14, 1902.)

Distributive shares—Tax.

Bequest to a priest taxable:

A bequest to a priest for the purpose of paying for masses is not exempt from legacy tax under the war-revenue law. (T. D. 7; January 6, 1900.)

Claims for refunding legacy tax:

Claims for refunding legacy tax paid in either error or excess should be made on form 46 by the executors or administrators who paid the taxes. In cases where the estates have been closed and the executors or administrators discharged, that fact should be clearly shown in the claims, and the names of the several legatees who bore the burden of taxation and the amount borne by each should be shown. Each claim should be further supported by a copy of the will of the testator (unless a copy has been previously filed in this office) and a copy of the return upon which the tax was assessed, and an amended return should be made out in accordance with the law as construed by the United States Supreme Court. (T. D. 143; June 2, 1900.)

Distributive share to illegitimate son:

A legacy from a reputed father to an illegitimate son, considered a stranger in blood, is taxable, accordingly, at the rate of $5 for each and every $100 of the clear value of such legacy, provided it exceeds $10,000. (T. D. 146; June 4, 1900.)

Each distributive share taxable:

A legacy or distributive share is taxable to its full amount, where it exceed $10,000, the liability to the tax and the rate being governed by the amount of each separate legacy or distributive share, instead of the whole amount of the personal estate from which the legacy or distributive share is derived. (See T. D. 129; May 15, 1900.) (T. D. 158; June 14, 1900.)

It is the entire beneficial interest of the legatee or distributee that is liable to tax. (T. D. 202; August 18, 1900.)

Diplomatic corps—Stamp tax.

The diplomatic corps is exempt from stamp tax on entries of any goods, wares, or merchandise at any custom-house, either for consumption or for warehousing. (T. D. 170; June 29, 1900.)

Diplomatic corps—Stamp tax—Continued.

Where testator, a citizen of the United States, died abroad, leaving property in the United States, his estate is *prima facie* liable. To exempt the property, as that of a nonresident, it must be established that his residence abroad was his permanent home, and that there was no intention of returning to the United States and resuming his domicile here. (T. D. 506; April 21, 1902.)

Documentary stamp taxes.

Collectors may receive payment for documentary stamp taxes due under repealed acts, reporting the same for assessment on list, and issuing receipt on Form 1 therefor. (T. D. 554; July 18, 1902.)

Documentary stamps on manifests not refundable:

There is no warrant for refunding documentary stamps used on manifests for clearances of vessels for foreign ports. No authority for refunding such stamps is found in either the decisions of courts or the acts of Congress. The evidence required in claims for refunding stamp tax on export bills of lading must show in each bill the date, the consignor, the consignee, the nature of the goods, the ports from which and to which the shipment is made, and the name of the vessel used for conveyance. (T. D. 597; November 24, 1902.)

Documentary stamps on export bills:

The Commissioner, with the approval of the Secretary of the Treasury, issues rules and regulations, under the act of June 27, 1902, for refunding of amounts paid for documentary stamps used on export bills of lading. (See Circular No. 84, Int. Rev. No. 628.) (T. D. 546; July 8, 1902.)

Drafts—Stamp tax.

Drafts drawn with the words "at sight" erased and the words "on arrival of goods" substituted, are drafts drawn otherwise than "at sight" or on demand, and are liable to stamp tax, the option being given to the drawee by the exercise of which the draft may be payable at some time after sight. (T. D. 379; July 13, 1901.)

Inheritance taxes:

The act of June 13, 1898, declared constitutional by the United States Supreme Court. The tax is not direct within the meaning of the Constitution, but, on the contrary, is a duty or excise. The uniformity clause of the Constitution relates only to geographical uniformity. The phrase "whole amount of such personal property as aforesaid" relates to the sum of each legacy or distributive share considered separately. Legacies not exceeding $10,000 are not taxed. The rate of tax is progressively increased by the amount of each separate legacy or distributive share, and not by the whole amount of the personal estate of the deceased from which the legacies or distributive shares were derived. The proposition that bonds of the United States and the income therefrom are not lawfully taxable under an inheritance-tax law of the United States, because exempted by contract from such tax, has been decided not to be well founded, in the case of Murdock, executor, *v.* John G. Ward, collector. (T. D. 129; May 15, 1900.)

Refund of tax paid in excess or error:

Claims for amounts paid in excess or in error on legacies can be paid without waiting for additional legislation by Congress. They should be made by the executor on Form 46 and supported by a copy of the return upon which the tax was assessed. If the estate has been closed and the executor or administrator discharged, the claim may be made by either the executor or the legatees at law, in the individual names of the legatees or heirs at law. (T. D. 213; September 14, 1900.)

Drafts—Stamp tax—Continued.

Legacies in Government bonds taxable:

The tax on legacies is not a tax upon the property, in the ordinary sense of the term, but upon the right to dispose of it. The Supreme Court has held that legacies consisting of Government bonds are not exempt from tax. (T. D. 229; October 11, 1900.)

An itemized statement of legal debts and expenses is required, unless the collector is satisfied that the total amount of such debts and expenses does not contain any item of legacy or distributive share. (T. D. 235; October 23, 1900.)

Dramshop bonds—Stamp tax.

Illinois dramshop not taxable under war-revenue law:

The Supreme Court of the United States, in decision rendered in October term, 1902, in the writ of error brought from the United States district court, northern district of Illinois, held the dramshop act of the Illinois general assembly to be the exercise of the police power of the State for the safety, welfare, and health of the community, a power reserved to and by the States, and therefore free from Federal restriction. Hence the bonds required of dramshops under the State law, and in pursuance of municipal ordinances in Illinois, are not taxable within the war-revenue act of June 13, 1898, but are exempt from stamp tax by the seventeenth section of that act. (T. D. 593; October 25, 1902.)

Drawback—Philippine articles.

It being held that an allowance of drawback, under section 26, act of June 13, 1898, extends only to articles mentioned in Schedule B when exported to a country beyond the jurisdiction of the United States, and the Supreme Court having decided that the Philippine Islands are domestic territory in relation to the United States tariff laws, the Comptroller of the Treasury rules that there can be no allowance of drawback where the internal-revenue tax has been paid on articles transferred or shipped to the Philippines. (T. D. 458; January 6, 1902.)

Drawback—Philippine shipments:

The Supreme Court having decided that the Philippine Islands are "domestic territory," no drawback of internal-revenue taxes, where articles upon which such tax has been paid are transferred to the Philippines, can be allowed under the act of June 13, 1898. (T. D. 458; January 6, 1902.)

Duffy's Malt Whisky—Special tax.

Druggists who sell Duffy's Pure Malt Whisky, a compound of distilled spirits and drugs, under a label holding it out as a remedy for diseases, and sell it in good faith for medicinal use only, never selling it as a beverage nor selling it to those buying it for use as a beverage, are not required to pay special tax as liquor dealers under the internal-revenue laws. (T. D. 445; December 11, 1901.)

Duty of recording officers—Stamp tax.

The official record of a stampable instrument should invariably show whether the original was stamped, and the amount thereof. (T. D. 165; June 27, 1900.)

Recording officers should, in every instance where the instrument is stamped, make proper notation on the record. (T. D. 215; September 25, 1900.)

E.

Executor's sales—Special tax.

The executor of the estate of a person who had not been a liquor dealer, but among whose assets are some packages of distilled spirits, is entitled to sell these spirits in one parcel only or at public auction in parcels not less than 20 wine gallons without paying special tax therefor, in view of the exempting provision of section 4, act of March 1, 1897. (T. D. 419; October 7, 1901.)

Entertainments—Special tax.

A small show, though combining some of the features of a circus, is required to pay only the special tax of $10, but when it develops into a complete circus it must then pay the special tax of $100. (T. D. 405; August 20, 1901.)

A scenic railway is not an "exhibition or show" within the meaning of the eighth paragraph of section 2, act of June 13, 1898, and act of March 2, 1901. Special tax is not required to be paid therefor. (T. D. 358; January 8, 1901.)

Entertainments of a musical character, given by a medicine vender, not collecting pay therefor, but designed to call together a crowd for the purpose of selling medicines, are not liable to special tax. (T. D. 294; March 7, 1901.)

In a city having a population of more than 25,000, every building wherein there is a stage, with other appointments of a theater, regularly used for "dramatic or operatic or other representations, plays, or performances, for admission to which entrance money is received," is a theater in contemplation of the sixth paragraph of section 2, act of June 13, 1898, and the fifth paragraph of section 2, act of March 2, 1901, for which the special tax of $100 is required to be paid. (T. D. 416; October 4, 1901.)

Where exhibitions, as in the Pan-American Exposition, are held in separate buildings to which a separate price of admission is charged, it is held that a separate special-tax stamp must be taken out for each. (T. D. 357; June 8, 1901.)

Where a gramophone exhibition is given in connection with temperance lectures by any person for his own pecuniary profit, he is required to pay special tax therefor. (T. D. 448; December 13, 1901.)

Excess of tobacco purchase—Special permits.

Where there is a purchase of leaf tobacco by manufacturers largely in excess of the demands of their factories, for the purpose of reselling to other manufacturers, the ruling is that collectors shall refuse to issue special permits authorizing the sales, if the manufacturers are engaged in the business of dealers in leaf tobacco. Such persons are required to make return and pay special taxes as dealers in leaf tobacco outside of the bonded premises. (T. D. 373; June 27, 1901.)

Exhibitions and shows—Special tax. (See also Circuses; Theaters.)

Amateur entertainments exempt:

Amateur theatrical exhibitions, either in private houses or licensed public halls, for church or charitable benefits, are not such performances as are taxable under the law. (T. D. 19752; July 23, 1898.)

A boxing exhibition to which an admission fee is charged is a public exhibition for money, even though no profit is derived therefrom, and special tax is required to be paid therefor. (T. D. 20486; January 3, 1899.)

Church entertainments nontaxable:

The ordinary church or Sunday-school entertainment, without any hired performers, does not come under the head of public exhibitions or shows for money contemplated by the law. (T. D. 19751; July 22, 1898.)

Exhibitions and shows—Special tax—Continued.

Patent-medicine "shows" taxable:

Venders of patent medicines, who give musical entertainments and concerts in tents, some of which are variety performances, to which admission at times is free and, at other times, a nominal admission is charged, must pay a tax of $10 for any State in which performances are given in the month of July and, after July the special tax is reckoned from the latter month under provisions of section 3237, Revised Statutes. (T. D. 19749; July 22, 1898.)

A show for money is taxable:

A concert company giving an entertainment, with regular charges of admission (not for any church, charitable, or other public object), is required to pay special tax under paragraph 8 of section 2, act of June 13, 1898. (T. D. 20501, January 5, 1899.)

A special tax is not required for entertainments given by church or Sunday-school assemblies, on grounds to which an admission fee is charged. (T. D. 21366; July 6, 1899.)

Piano playing by one person, or music furnished by a music box or orchestrion, is neither a concert nor a show or exhibition; special tax is not required to be paid therefor. (T. D. 20679; February 6, 1899.)

Where the admission fee charged for a skating rink is merely to entitle the persons paying it to the privilege of skating, special tax is not required to be paid therefor; but where it entitles them to witness the exhibition of skating, it is a public exhibition or show for money for which special tax is required to be paid. Special tax is required to be paid for "indoor baseball" exhibitions and "crystal maze" exhibitions to which an entrance fee is charged. (T. D. 20499; January 4, 1899.)

The proprietor of an opera house in a town whose population is less than 25,000, who himself gives no exhibitions therein, is not required to pay and special tax therefor under section 2 of the war-revenue act. (T. D. 20500; January 5, 1899.)

Where an amusement company has several different companies playing at the same time at several places in the same State, separate special tax is required to be paid and a separate stamp taken out for each. (T. D. 20504; January 6, 1899.)

The requisite special-tax stamp is required to be held for entertainments given for money by quartettes and concert companies for the profit of those concerned therein. (T. D. 20543; January 11, 1899.)

Special tax is required where lecture bureaus or other like organizations send out lecturers giving stereopticon or other illustrations, or where concert or other companies give exhibitions for their own pecuniary profit. (T. D. 20609; January 24, 1899.)

Special tax is not required to be paid by proprietors of stores for a musical entertainment by a band hired by them for the entertainment of their customers. (T. D. 20722; February 18, 1899.)

Amateur clubs not taxable:

Amateur clubs or local organizations giving exhibitions, even though they charge an admission price, are not required to pay special tax therefor if the proceeds thereof are not for the pecuniary profit of the clubs or associations, but are devoted to some charitable or public object and payment of expenses. (T. D. 20840; March 11, 1899.)

Ignorance of law does not excuse from criminal liability:

It is the duty of proprietors of exhibitions or shows for money to inform themselves as to the requirements of the law relating to their business, and to ascer-

Exhibitions and shows—Special tax—Continued.

Ignorance of law does not excuse from criminal liability—Continued.

tain the name and address of the collector in each district in which their special-tax liability begins, and to pay the requisite special tax. Failing to do so, they are criminally liable under section 4, act of June 13, 1898. (T. D. 20783; March 1, 1899.)

Where there are no admission fees, no tax:

An entertainment given by a railway company, to which no admission price is charged, is not regarded as an exhibition or show for money under the eighth paragraph of section 2, act of June 13, 1898. Contrary ruling revoked. (T. D. 21559; August 30, 1899.)

In the absence of an express statutory provision exempting county fair associations from special tax for fairs given by them, it is held that the tax must be paid under the eighth paragraph of section 2, act of June 13, 1898. (T. D. 21665; October 10, 1899.)

Special tax is not required to be paid by proprietors of restaurants or cafés for employing bands of music or orchestras during meal hours for the benefit of their patrons, no admission price being charged and no performance or exhibition being given in connection therewith. Former rulings tending to a different conclusion are modified in accordance herewith. (T. D. 21522; August 22, 1899.)

Special tax is not required to be paid for bands of music playing in saloons to which no price of admission is charged, and where persons visiting such places are not under any obligation to buy, even though the proprietors "expect people who go there to buy drinks." (T. D. 21636; September 28, 1899.)

Baseball games given by college and amateur or local clubs are not such exhibitions as require payment of special tax. They are distinct from baseball exhibitions given by professional clubs as a regular business for money. (T. D. 21051; April 24, 1899.)

Special-tax stamp for circus:

The hundred-dollar special-tax stamp for a circus does not cover an entertainment given as a side show, for admission to which a price is charged additional to the cost of the circus ticket. A separate special-tax stamp must be taken out under the eighth paragraph of section 2, act of June 13, 1898, for such side show. (T. D. 21191; May 25, 1899.)

Moving band of music nontaxable:

Special tax is not required to be paid by bands of music—for instance, Italian and German bands—going from place to place and playing from time to time in liquor saloons. (T. D. 21317; June 27, 1899.)

Special tax for music hall at summer resort:

The special tax of $10 only is required to be paid for the hall in the grounds of a summer resort where performances are given from time to time during the summer season. Though these grounds are within the limits of a city of a population of 25,000 or more, such hall is not a theater building or concert hall within the meaning of the sixth paragraph of section 2, act of June 13, 1898, for which the $100 special-tax stamp is required to be taken out. (T. D. 21319; June 27, 1899.)

Proprietors of exhibition companies taxable:

In case of an exhibition or show for money given on a boat moving from place to place on rivers, the proprietor must hold a special-tax stamp for each State in which the boat lands and such exhibition is given. (T. D. 225; October 9, 1900.)

Exhibitions and shows—Special tax—Continued.

Proprietors of exhibition companies taxable—Continued.

Singing by one person, with piano accompaniment, though an admission price is charged thereto, is not an exhibition or show within the meaning of the eighth paragraph of section 2, act of June 13, 1898, and special tax is not required to be paid therefor. (T. D. 20951; April 3, 1899.)

Singing and playing on the public streets to attract a crowd for the sale of medicine can not fairly be regarded as an exhibition or show for money within the meaning of the eighth paragraph of section 2, act of June 13, 1898, and special tax is not required to be paid therefor. (T. D. 230; October 11, 1900.)

Where a company whose business it is to go from place to place giving exhibitions for money is engaged by any local organization to give such an exhibition, it is not the local organization or association that is required to pay the special tax; nor is a lyceum bureau, which is not the proprietor or agent of such company, but merely makes a contract with the local organization, subject to such tax. The proprietor or agent of such company is the person who should make return to the collector of the district in any State in which the company exhibits, pay the special tax, and take out the requisite stamp for that State. (T. D. 20880; March 17, 1899.)

Special tax under section 2, war-revenue law:

Special tax is not required to be paid by an association of citizens of any town or city for street fairs given by them without pecuniary profit to the association or any member or officer thereof. Proprietors or agents of shows hired by the association, to which a price of admission is charged, must themselves hold the special-tax stamp contemplated by the eighth paragraph of section 2, act of June 13, 1898, for each public exhibition or show for money. (T. D. 251; November 26, 1900.)

Poultry shows, not for profit, nontaxable:

A poultry show or other exhibition given by an association, for admission to which money is collected, not for the pecuniary profit of any member of the association, but merely to cover expenses incurred, is not such a public exhibition or show for money as is contemplated by paragraph 8, section 2, act of June 13, 1898, and special tax is not required to be paid therefor. (T. D. 253; December 4, 1900.)

A "home talent" exhibition given for the benefit of a school, or by a ladies' sewing circle, for a public benefit, is not among the "public exhibitions or shows for money" for which special tax is required to be paid. (T. D. 21; January 24, 1900.)

A company giving exhibitions of pictures to which an admission fee is charged for the pecuniary profit of the company is required to pay special tax under the eighth paragraph of section 2, act of June 13, 1898. (T. D. 22; January 24, 1900.)

Special tax is not required to be paid for a poultry show to which an admission price is charged simply to pay the expenses, and not for the pecuniary profit of the association giving the show or of any of its members. (T. D. 26; January 27, 1900.)

National soldiers' home not taxable:

A national soldiers' home is not required to pay special tax for employing theatrical companies to give performances, for admission to which a price is charged, the proceeds being devoted to the amusement fund of the home; but the proprietor or agent of every such company giving exhibitions for money must hold the requisite special-tax stamp under the eighth paragraph of section 2, act of June 13, 1898. (T. D. 47; February 19, 1900.)

Exhibitions and shows—Special tax—Continued.

National soldiers' home not taxable—Continued.

A "concert or after show" given in the principal tent at the conclusion of the main show to those who choose to remain, paying a small sum in addition to the cost of the ticket to the main show, is held not to be a separate show for which an additional special tax is required to be paid. (T. D. 148; June 5, 1900.)

An entertainment, with music, given by a firm of merchants to attract the public to an annual display in connection with their store, is held not to be a public exhibition or show for which special tax is required to be paid under section 2 of the war-revenue act. (T. D. 20319; November 11, 1898.)

Exhibition by fraternal society not taxable:

A fair or entertainment given by a fraternal organization, the proceeds of which are to be devoted to "sick benefits" or like objects, is held not to be such an exhibition or show as is contemplated by the eighth paragraph of section 2 of the act of June 13, 1898; special tax is not required to be paid therefor, nor is special tax required to be paid under that paragraph for a "harvest home festival." (T. D. 20367; November 21, 1898.)

Lectures on chemistry and physics, accompanied by the necessary experiments, are not among the public exhibitions or shows for money contemplated by the eighth paragraph of section 2 of the act of June 13, 1898, for which special tax is required to be paid. (T. D. 20315; November 10, 1898.)

Special tax is not required to be paid for lectures with a pianoforte recital incidental thereto. (T. D. 20314; November 10, 1898.)

The occasional playing of a band in a city park, although it is paid by a railroad company, subjects neither the band nor the company to special tax. (T. D. 20273; October 31, 1898.)

Where a fair association hires a man at a stated salary to furnish a special attraction (chariot races, hippodrome races, and "a few Wild West acts"), the special tax should be paid by the association and not by the man hired. (T. D. 20271; October 31, 1898.)

Paragraph 8, war-revenue law:

A person who has a "store show" consisting of a "few monkeys, one panther, two leopards, some snakes, canary birds, and parrots," and also "two or three illusions," is not taxable as a circus under paragraph 7, section 2, war-revenue act, but under paragraph 8, war-revenue act, and the special tax of $10 is reckoned from the first day of the month in which it was opened to the 1st of July following. (T. D. 20238; October 24, 1898.)

An amateur theatrical entertainment for the benefit of a fire department is held not to be subject to special tax as a public exhibition or show for money. (T. D. 20242; October 25, 1898.)

Although the public is not charged for admission to the parlor, hall, or place of exhibition, yet, as the phonographs are kept there for the purpose of making money, they are to be regarded as shows for money within the meaning of the law, and special tax must be paid for such exhibition, parlor, or hall. (T. D. 20261; October 26, 1898.)

A harvest show, with an evening entertainment by local talent, for the benefit of a grange, is not required to pay special tax as an exhibition or show. (T. D. 20124; October 3, 1898.)

Concert halls in cities having more than 25,000 population, as shown by the last census, to which a nominal entrance fee is charged, are subject to special tax. (T. D. 20270; October 31, 1898.)

Exhibitions and shows—Special tax—Continued.

Paragraph 8, war-revenue law—Continued.

No special tax is required to be paid for an illustrated lecture if the money derived therefrom is devoted exclusively to the use of an educational association. (T. D. 20123; September 30, 1898.)

Fortune telling not liable to special tax:

An athletic association giving exhibitions on its field or within its inclosed grounds, for money, is required to pay special tax under the eighth paragraph of section 2 of the act of June 13, 1898. (T. D. 20190; October 12, 1898.)

The telling of fortunes for money is not such a business or exhibition as involves the fortune teller in special-tax liability under section 2, act of June 13, 1898. (T. D. 20165; October 11, 1898.)

Special tax is not required to be paid for an occasional game of football, baseball, or other game given by local clubs where an admission price is charged, not for profit, but merely to cover expenses. (T. D. 20228; October 19, 1898.)

Special tax is not required to be paid under section 2 of the act of June 13, 1898, for mere lectures, readings, or declamations by lecturers or elocutionists who exhibit no pictures or shows of any kind. (T. D. 19977; August 30, 1898.)

Agricultural society, presenting horse races, etc., taxable annually:

An agricultural society presenting, as an incident to the horse races, ball games, and the usual exhibits of a county fair, a show which includes some "acrobatic sports," etc., is not required to pay special tax as a circus under paragraph 7 of section 2, act of June 13, 1898, but should pay special tax at the rate of $10 for the year, under paragraph 8. (T. D. 20029; September 9, 1898.)

A variety performance given in a saloon "without cost," the patrons of which, however, are expected to buy drinks, is subject to special tax of $10 under paragraph 8 of section 2, act of June 13, 1898. (T. D. 19976; August 30, 1898.)

A club giving exhibitions, not for any charitable or public objects, but solely for its own benefit, is required to pay special tax at the rate of $10 under paragraph 8 of section 2 of the war-revenue act. (T. D. 20032; September 13, 1898.)

A railroad company which has a park to promote excursions, although no admittance is charged, and no charge is made for reserved seats, must pay a special tax as an exhibition or show for money. (T. D. 20064; September 16, 1898.)

Exhibitions of fair associations are required to pay the special tax of $10, under paragraph 8, section 2, act of June 13, 1898. (T. D. 19960; August 24, 1898.)

Entertainments for money, exhibiting the speed of greyhounds in what are known as "rabbit races," are subject to special tax under paragraph 8, section 2, act of June 13, 1898. (T. D. 19967; August 26, 1898.)

Exhibitions at parks, beer gardens, or places of resort outside of corporate limits of large cities are subject to tax of $10 under paragraph 8 of section 2, act of June 13, 1898. (T. D. 19968; August 27, 1898.)

Special tax is not required to be paid under paragraph 8 of section 2 of the act of June 13, 1898, for the artoscope, a nickel-in-slot machine, set up in stores or other places, automatically showing pictures from the dropping of a nickel into the slot; but if, in an exhibition hall, a number of these machines be set up, the proprietor of such hall or public place of exhibition must pay special tax under that paragraph. (T. D. 20121; September 30, 1898.)

Trustees or owners of a public hall which is only occasionally used for purposes of entertainments, embracing lyceum lectures, school exhibitions, dances, etc., not required to pay special tax. (T. D. 19941; August 23, 1898.)

Exhibitions and shows—Special tax—Continued.

Variety shows for money, liable to special tax:

Exhibitions and shows given on fair grounds, but not under management and control of the fair association holding special-tax stamp, are required to pay separate special tax. (T. D. 19826; August 4, 1898.)

The show of a medicine vender (consisting of various "athletic, humorous, and comic performances," there being given also an exhibition of ropewalking and trapeze performance, the object being merely to attract a crowd) liable to a tax of $10 under paragraph 8, act of June 13, 1898, instead of $100 under paragraph 7. (T. D. 19830; August 4, 1898.)

Variety shows, for which no admission fee is charged, but which are a combination of dialogue and song and acrobatic feats, it being expected that everyone who enters will patronize the place by purchasing either beer or other drinks, are liable to special tax under section 2, act of June 13, 1898, and section 3237, Revised Statutes. (T. D. 19753; July 23, 1898.)

Horse-race exhibitions:

The special tax for horse-race exhibitions, which are mere tests of the speed of horses, is required to be paid under paragraph 8, second section, act of June 13, 1898, reckoned from the first day of the month in which they begin. (T. D. 19873; August 10, 1898.)

Evidence—Unstamped instruments.

Instruments are inadmissible as evidence in Federal courts unless stamped as required by law. Authorities differ as to whether they can be admitted as evidence in State courts. The question has not been adjudicated by the Supreme Court of the United States. In the case of Campbell *v.* Wilcox (10 Wall, 421), it was stated that the penalty of the statute was aimed at the fraudulent, and not the accidental omission of a stamp. (T. D. 474; February 14, 1902.)

Exchanging old for new stamps.

In order to prevent, under act of April 12, 1902, loss to the Government, and confusion and delay in settling accounts, collectors should advise brewers and manufacturers of tobacco and snuff to purchase as few stamps of the old issue as will meet their requirements until July 1, 1902, and collectors should order from this office beer, tobacco, and snuff stamps of the present rate of tax in sufficient quantities only to meet current demands, in order that their stock of such stamps to be returned on June 30 may be reduced as low as possible. (T. D. 503; April 16, 1902.)

Exchanging stamps under act of 1902:

When exchanging beer, tobacco, and snuff stamps, under the provisions of the act of April 12, 1902, the collector should accompany each lot of stamps by a schedule of the stamps presented for exchange, setting forth in columns under appropriate headings the number of each denomination and the amount of cash paid. There should be presented with said stamps and schedule an order for stamps at the new rate of tax, specifying the denominations desired. The total value of the new stamps ordered should be made to correspond as nearly as possible to the total value of the old stamps returned for exchange. (T. D. 503; April 16, 1902.)

Excise tax—Sugar refining.

Section 27, act of June 13, 1898, imposing a tax on gross annual receipts of sugar refiners exceeding $250,000, is constitutional; receipts from capital invested in wharves are taxable; receipts accruing from interest from funds deposited in banks or invested in income-producing securities are taxable. The circuit

Excise tax—Sugar refining—Continued.

court erred in holding that the plaintiff was required to pay the taxes otherwise than annually. (T. D. 462; January 20, 1902.)

Exchanges, boards of trade, etc. (See also Decisions 21279, 21315.)

Decision of United States Supreme Court, October term, 1898. The provision relating to sales or agreements to sell products or merchandise at any exchange or board of trade, or other similar place, and requiring the seller to give a bill or memorandum which shall be stamped, declared constitutional. Sales of live stock at stock yards come within the law, the same being a similar place to an exchange or board of trade. (T. D. 20984; April 7, 1899.)

The law holds that, to constitute an exchange, board of trade, or other similar place, as described by the statute, there must be more than one person, company, or partnership authorized to negotiate sales thereat. (T. D. 21148; May 10, 1899.)

Exemptions—Special tax.

Amendment of Schedule A:

The amendment of Schedule A, war-revenue law, applies only to persons, companies, or corporations engaged in carrying on an express business exclusively, and not to railroad companies. (T. D. 380; July 13, 1901.)

Section 3246, Revised Statutes:

By the provisions of section 3246, Revised Statutes, a druggist is permitted to keep spirits and wines, and use them, in combination with drugs, in the preparation of medicines that are not beverages, and to sell such medicines without paying special tax as a liquor dealer under the internal-revenue laws of the United States. But under the uniform rulings of this office and the decisions of the United States courts he can not, without subjecting himself to this special tax, sell spirits or wines that are not combined with drugs or materials of any kind taking these liquors out of the class of beverages, even when he sells the liquors on a physician's prescription and for medicinal use only. (T. D. 421; October 18, 1901.)

Exemption of distillers of fruit brandy:

Under section 3255, Revised Statutes, amended, the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may exempt from special tax distillers of brandy from fruits, when in his judgment it may seem expedient to do so. (T. D. 275; February 9, 1901.)

Exemption of railroad selling wine to pay freight:

Where separate consignmemts of packages of wine are held by a railroad for nonpayment of freight, the special tax of a liquor dealer under the internal-revenue laws of the United States is not required to be paid for separate sales of these packages of wine if each consignment is sold as one parcel, in view of the exempting provision of section 4, act of March 1, 1879 (Compilation 1900, p. 126). (T. D. 829; September 24, 1904.)

Execution of warehouse bond:

Warehousing bonds, and other bonds given under internal-revenue laws, are not to be accepted when executed by one person as the agent or attorney for both the principal and surety. (T. D. 780; April 22, 1904.)

Export bond—Fermented liquor:

Where the failure to export fermented liquor or to furnish proof of exportation is due to no fault or negligence, the penalty conditioned in the brewer's export bond (Form A) need not be enforced, and the tax only on such liquor will hereafter be assessed and collected. (T. D. 540; June 26, 1902.)

Express receipts—Stamp tax.

Express receipts for goods and merchandise to be transported from the United States to a foreign country not exempt from tax under decisions of United States Supreme Court in the matter of export bills of lading. (T. D. 334; April 26, 1901.)

The exemption of express companies from giving stamped receipts for goods received by them for transportation made by the act of March 2, 1901, amending Schedule A, act of June 13, 1898, does not apply to railroad companies. (T. D. 380; July 23, 1901.)

Goods transported to a foreign country require to be stamped:

The decision of the United States Supreme Court declaring the tax on export bills of lading unconstitutional was expressly confined to export bills of lading, the question of express receipts not being considered by the court. It is held, therefore, that express receipts given in the United States for goods to be transported to a foreign country are required to be stamped. (T. D. 334; April 26, 1901.)

Express and freight—Stamp tax.

Receipts issued by special-delivery transfer companies for special-delivery baggage are not subject to tax. The Treasury decision No. 21668 is revoked. (T. D. 13; January 9, 1900.)

The express check or receipt given for a bicycle transported on a passenger train, along with the owner, is not subject to taxation. (T. D. 62; March 8, 1900.)

Mail carriers who make a regular practice of carrying packages from town to town must issue stamped receipts. (T. D. 63; March 8, 1900.)

Express companies are not forbidden to shift the burden of the stamp tax by an increase of rates which are not unreasonable. (T. D. 100; April 18, 1900.)

Every carrier receiving goods for domestic transportation is under an absolute obligation to issue a stamped receipt therefor, under a penalty for failure of $50 for each offense. See revenue circular No. 570. (T. D. 126; May 14, 1900.)

F.

Fermented liquor.

Act of July 24, 1897:

The decision of the United States circuit court of appeals for the seventh circuit, in the case of Coyne, Collector, *v.* Manhattan Brewing Company, accepted as final. The act of July 24, 1897 (30 Stat., 206), which repealed the provision of section 3341, Revised Statutes, that the Commissioner of Internal Revenue should allow upon all sales of beer stamps to any brewer, and by him used in his business, a deduction of 7½ per cent, did not affect the tax-paying value of stamps purchased before it went into effect, and upon which the deduction was allowed, but which were not used until after it went into effect. (T. D. 175; July 7, 1900.)

Rate of tax on beer:

In opinion rendered by the Attorney-General June 2, 1900, on the question of the rate of tax on beer in storage June 14, 1898, it is held that the rate, under section 3339, Revised Statutes, was $1.85 per barrel, and not $2. (T. D. 144; June 4, 1900.)

Fire insurance companies.

Assigned policies taxable in proportion to unearned premium:

Policies of fire insurance when assigned or transferred to a new holder or owner are subject to taxation in proportion to the unearned premium. (T. D. 20068; September 19, 1898.)

Fire insurance companies—Continued.

Premium notes taxable:

Stamp tax must be paid on premium notes as well as on the policies issued on such notes. Premium notes, representing the amount of premium stated in the policy, are taxable as promissory notes in Schedule A, war-revenue act. (T. D. 19620; July 2, 1898.)

Exemption from tax of cooperative companies:

The provision in the act of June 13, 1898, exempting purely cooperative or mutual fire insurance companies from stamp tax, was intended to apply to only those companies where a number of persons associated themselves together as companies or cooperative associations in business to be carried on by the members solely for the protection of their own property and for nothing more. Whenever the business of the association or company goes beyond the point of protection for their own property, such association or company is taken out of the exemption. (T. D. 19651; July 7, 1898.)

Reinsurance of fire policies:

Reinsurance may be effected in two ways, viz: First, by a general contract or written agreement whereby the acceptance of a risk by one company immediately binds the second, or the same effect is produced by entries for specific causes. This form of reinsurance is not subject to taxation. The second form is where, by reason of extra-hazardous risk, the reinsurance requires an extra premium, protecting the primary insuring company against an apprehended loss. The amount of such extra premium subjects to taxation the policy of the reinsuring company. (T. D. 19963; August 24, 1898.)

Reinsurance of insurance policies:

The reinsurance of insurance policies in other companies is not taxable, provided the whole amount of tax due upon the insurance actually taken is paid by the stamps affixed to the policy of the insuring company, there being only an agreement to share in the obligation and responsibility for the insurance already taken. Where, however, the reinsurance is sought because the risk is extra hazardous, the extra premium is taxable and the amount thereof must be set forth in the entry and register of insurance and the proper stamp affixed to the margin of the page in the register. (T. D. 19836; August 5, 1898.)

Wherever the receipts of a mutual insurance company are in excess of losses and expenses, and said excess is invested in income-bearing securities, its policies are subject to stamp tax under the war-revenue act. (T. D. 20020; September 2, 1898.)

Insurance policies issued and delivered in the United States affecting the life and property of residents of this country are liable to stamp tax, whether the issuing companies be foreign or domestic. (T. D. 20034; September 14, 1898.)

Filter in manufacturing wine.

A manufacturer of wine who sells his wine strictly within the terms of the exempting provision of section 3246, Revised Statutes, and does not deal in distilled spirits or other alcoholic liquors, and, therefore, does not hold a special-tax stamp as a liquor dealer under the internal-revenue laws of the United States, is not required to pay special tax as a rectifier for having a filter on his premises and using it only in the mechanical clarification of his wine by the removal of extraneous substances floating therein. (T. D. 822; August 31, 1904.)

Filled cheese—tax on goods exported.

Construction by the United States Supreme Court of the constitutional provision prohibiting Congress from laying a tax on exports. No objection to the imposition of the same tax on filled cheese manufactured for export, and in fact exported, as upon other filled cheese. (T. D. 757; March 4, 1904.)

Forms 23½ and 476.

So much of regulations No. 1, prescribed October 29, 1900, as relates to the preparation and disposition of Forms 23½ and 476, and requiring the use of column 11, Form 23, for every monthly list, as directed in Circular 582, and on pages 164 and 165 of said regulations, is hereby modified so that such use shall apply only to the lists for the months of December, March, June, and September of each year, and that for the other eight months of the year the *whole amount* of the lists will be receipted for in full on Form 23½, no Form 476 being required for those months except in case of change of collectors (Regs. No. 1, p. 169), or the renewal of a collector's bond, which will be treated in the same manner. (T. D. 426; October 30, 1901.)

Form 499—Renovated butter.

All renovated butter returned to the factory should be noted on the report, Form 499, under a special heading written across the page, as follows: "Special account of tax-paid renovated butter returned to the factory." (T. D. 596; November 17, 1902.)

Forfeiture of distillery.

Forfeiture in case of fraud embraces interest of distiller, and of every person who has knowingly permitted the business of a distiller to be there carried on, or has connived at the same. (T. D. 589; October 17, 1902.)

Fortified sweet wines:

Sweet wines fortified with spirits free from tax can not be used by a rectifier in the production of imitation, spurious, or compound liquors. (T. D. 539; June 26, 1902.)

Fractional excesses.

Collectors are advised that hereafter, in accounting for excesses arising from fractions, they shonld enter on Form 58 the items of excess collected from different classes of stamps, designating the amount of excess arising from each kind of stamps, respectively, as "Special-tax stamps, six cents," "Distilled-spirits stamps, twelve cents," etc., from which the excess arises. These amounts will then be receipted for, in the aggregate, on Form No. 476. This manner of accounting for excesses arising from fractions obviates the necessity of entering them on Form No. 79, or in the margin of Form 51, as heretofore. (T. D. 280; February 14, 1901.)

Records of daily receipts should show the amount actually collected from each taxpayer, which amount should in no case be less than the face value of the stamps sold. When the face value includes a fraction the final figure for cents should be the next higher. This usually creates what is called an excess. Fractions of a cent should never be entered in the records of daily receipts. (T. D. 289; February 25, 1901.)

G.

Gauging spirits.

Spirits produced and gauged after January 1, 1899:

Circular No. 635, issued to collectors, advises that the act of March 3, 1899, has no application whatever to spirits produced and originally gauged on or after January 1, 1899. It follows, therefore, that such spirits are entitled to be regauged in warehouse only on request made prior to the expiration of four years from the date of original gauge as to fruit brandy, or original entry as to all other spirits, as required by section 50 of the act of August 28, 1894, and that such spirits are subject to all the limitations prescribed by said section 50, under which the maximum allowance for loss of spirits in bond is fixed at 9 gallons. (T. D. 601; December 3, 1902.)

Gauging spirits—Continued.

Gauging sweetened and unsweetened spirits:

Referring to gauging sweetened and unsweetened spirits the Commissioner relaxes the rule previously enunciated, and now rules that where the introduction of saccharine matter into the product of rectification gives rise to a difference of as much as 10 per cent between the actual known proof and the apparent proof, and where at the same time the product is properly known to the trade by some other name than a simple name ordinarily applied to the unsweetened product of a distillery, as whisky, rum, gin, brandy, etc., without other modification, such product may properly be classified as sweetened spirits and gauged, marked, branded, stamped, and reported in the manner provided for sweetened spirits in Circular 556. (T. D. 511; April 29, 1902.)

Standard of "devices" for caution notices:

The Bureau of Internal Revenue has not adopted and will not adopt "a standard" of devices as to "caution notices," or trade labels, for the use of wholesale liquor dealers, upon single-stamped spirits, but holds that in case of the seizure of a package of spirits as being subject to forfeiture under section 17, act of January 8, 1875 (sec. 3316*a*), it would be for the jury to say, if the package were libeled, whether the device used was in the resemblance or had the general appearance of an internal-revenue stamp required for spirits. (T. D. 507; April 27, 1902.)

Ginger stout—Special tax.

A beverage made from various roots and herbs and fermented comes within the class of root beers, and if no alcoholic liquor of any kind is added to it special tax is not required to be paid under the internal-revenue laws for its manufacture and sale. (T. D. 776; April 13, 1904.)

Ginger ale under Schedule B.

Ginger ale held not to be liable to taxation under Schedule B, act of June 13, 1898, unless specially advertised as medicinal, and not liable under section 3339, Revised Statutes, as a similar fermented liquor to ale, beer, etc. Hop ale held liable to tax as fermented liquor under section 3339, Revised Statutes, and the venders thereof to special tax as malt-liquor dealers. (T. D. 19616; July 2, 1898.)

Gross receipts.

Referring to the recent decision of the United States circuit court of appeals, in the case of the Spreckels' Sugar Refining Company *v.* McClain, collector (T. D. 462), to the effect that the tax imposed by section 27, act of June 13, 1898, on gross receipts, is payable annually—that is, at the expiration of each annual period—assessments of the tax in such cases will hereafter be made at the expiration of each special-tax year. (T. D. 488; March 15, 1902.)

H.

Hawaiian exportation.

Date of sailing, date of exportation, under act of 1900:

The date of the sailing of a vessel is to be regarded as the date of exportation of domestic articles shipped from the United States to Hawaiian territory prior to June 14, 1900. The Attorney-General's opinion dated July 22, 1898 (embodied in T. D. 19783), holds the Hawaiian Islands, so far as our commercial relations are concerned, as foreign territory, and will be so regarded until the act of June 14, 1900, takes effect. (T. D. 125; May 12, 1900.)

Hawaiian exportations—Continued.

District of Hawaii created:

Under section 87, act of April 30, 1900, a new internal-revenue district, comprising the Territory of Hawaii and known as the district of Hawaii, is constituted, with headquarters at Honolulu. (T. D. 157; June 14, 1900.)

Exports to Hawaii taxed in bond:

From and after June 14, 1900, the following articles manufactured or produced in the United States can not be exported to the Territory of Hawaii in bond without the payment of tax, nor with the benefit of drawback as heretofore viz, distilled spirits, stills, and worms; tobacco, snuff, cigars, and cigarettes; fermented liquors; playing cards; oleomargarine; mixed flour; proprietary articles; medicines, bottled wine, and all other products named in Schedule B of the war-revenue act of June 13, 1898. (T. D. 120; May 5, 1900.)

Hop-tea tonic—Special tax.

A fermented malt liquor containing 1.82 per cent of alcohol, without the addition of any drug, can not be sold, even under a label as a medicine, without involving the seller in special-tax liability. (T. D. 829; October 4, 1904.)

I.

Imprinted stamps.

Imprinted stamps bought by bankers or stationers:

Bankers or stationers may purchase imprinted stamps which they procured and sold to their customers, and, as the bona fide owners thereof, present claims in their own names for the redemption of such stamps, without regard to the number purchased from each customer. (T. D. 361; June 18, 1901.)

List of contractors authorized to imprint stamps; also list of stamp agents, together with instructions as to procurement of said stamps. (See Int. Rev. circular No. 541, revised.) (T. D. 183; July 26, 1900.)

Return of canceled imprinted stamps:

The Commissioner of Internal Revenue was authorized by the joint resolution of Congress approved February 2, 1902, to return to their owner bank checks, drafts, etc., having imprinted stamps thereon, after the same had been canceled. (T. D. 476; February 26, 1902.)

Insurance tax—Life policies. (See also Decisions 19841, 19973, 20235.)

Assignment of life insurance:

In assignment of a life insurance policy the stamp tax upon the assignment shall be the same as that required upon the original policy, the cash value of the policy at the time not affecting the amount of tax. (T. D. 19708; July 18, 1898.)

A policy of insurance is not valid unless it bears the proper canceled revenue stamp. Stamps may be affixed by local agents when policies are delivered. (T. D. 19741; July 20, 1898.)

Mutual life insurance nontaxable:

Mutual life insurance companies are not subject to tax if conducted for the benefit of their members exclusively, without profit to such members. "Fraternal" or "beneficiary" life insurance companies, if conducted for the benefit exclusively of its members, without profit, are exempt from tax. (T. D. 19804; August 1, 1898.)

First weekly premiums received in various collection districts by local agents of life insurance companies may be included in the monthly returns rendered to the collector of the district in which such companies are located. (T. D. 20059; September 14, 1898.)

Insurance—Stamp tax. (See also Decisions 20551, 21110.)

No tax accrues on a contract between life insurance companies for reinsurance upon any life or lives. (See opinion of Attorney-General under date of February 3, 1899.) (T. D. 20677; February 6, 1899.)

A mere change of beneficiary not taxable:

The former ruling to the effect that every change of a beneficiary in a life insurance policy subjects the policy to a taxation of 8 cents for each $100 of value of the policy is reconsidered, and it is now held that a change of beneficiary is not subject to taxation unless the change be made for a valuable consideration. The latter would be subject to the same rate of tax as the original policy. (T. D. 20726; February 20, 1899.)

Instruments of insurance taxable:

Fraternal and beneficiary life associations are exempt from tax on their policies or certificates under Schedule A, war-revenue law. (T. D. 207; September 5, 1900.)

Instruments of insurance are taxable, and under Schedule A, war-revenue act, any person, association, company, or corporation transacting the business of insuring titles to real estate is required to affix to such policy of insurance, bond, or obligation stamps in the amount of one-half of 1 cent for each dollar or fractional part thereof of premium charged. (T. D. 14; January 11, 1900.)

The stamp under the war-revenue act must be affixed to the policy of insurance, and not to the application. The amount of tax is to be ascertained by the aggregate of the premiums for the entire year. (See Attorney-General's opinion of September 5, 1900.) (T. D. 208; September 5, 1900.)

When a life insurance company unites with another company and the reorganized company assumes the risks of the absorbed company, no tax accrues on policies issued in lieu of the surrendered policies of the absorbed company unless an additional amount of insurance is written. (T. D. 162; June 22, 1900.)

Attorney-General's opinion on reinsurance:

The opinion of the Attorney-General, under date of February 3, 1899, relating to the reinsurance of life insurance policies, is supplemented by his opinion, dated March 2, 1899, so as to place reinsurance of fire and marine companies on the same basis, for purposes of taxation, as that of life insurance, exempting the same from stamp tax. (T. D. 20789; March 4, 1899.)

Conditions relating to surrendered policies:

Several conditions under which a policy of life insurance, issued in lieu of a surrendered policy, is not subject to taxation. Instructions in regard to indorsing the new policy to show why stamps are not affixed; change of beneficiaries without consideration not taxable; when made for a valuable consideration, taxable as assignments. (T. D. 21227; June 2, 1899.)

When policies of reinsurance of fire insurance policies are written in the United States and the policy which is reinsured is not subject to taxation by reason of being issued in a foreign country, the reinsurance policy should be stamped. (T. D. 21229; June 3, 1899.)

Insurance against dishonesty or negligence:

In the case of a fidelity insurance contract, running to a railroad or other corporation, whereby the corporation is insured against loss on account of the dishonesty or culpable negligence of employees, it is held that such contract is in the nature of an insurance policy alone, not as a bond, and should be stamped to the amount of one-half of 1 cent for each $1 of premium charged by the insuring company. (T. D. 20781; March 1, 1899.)

Insurance—Stamp tax—Continued.

Tax not due on policy renewal:

Stamp tax is not required where a policy is surrendered and the insurance company issues a new policy of paid-up insurance; where a policy is surrendered to be rewritten at the home office for, say, one-half the original amount, the other conditions remaining unchanged; and where a policy is surrendered for a new policy on one of the other plans of the company, there being no change in the beneficiary. There is no new insurance. (T. D. 21048; April 21, 1899.)

Accident insurance policies:

Policies of accident insurance, whereon the premiums are payable in installments, should be stamped, when issued, on a basis of the full premium charged for the whole term. The policy can not be stamped on a basis of the first premium paid and the application stamped as succeeding premiums are paid. (T. D. 21646; October 9, 1899.)

Annuities not taxable:

Annuities, payable either during life or a term of years, are not taxable under Schedule A, act of June 13, 1898. (T. D. 21618; September 20, 1899.)

Exemptions of insurance—Tax classified:

The insurance of life companies, exempt from stamp tax, is classified as follows, viz: Insurance by fraternal societies or orders, by beneficiary societies or orders, by farmers' purely local cooperative companies or associations, and by employees' relief associations operated on the lodge system or local cooperative plan, and all not for profit and conducted solely by the members thereof for their exclusive benefit. (T. D. 21779; November 16, 1899.)

Where the instruments are accessible and the parties are willing to purchase stamps, the instrument should be stamped instead of having assessments made for the taxes due. (T. D. 489; March 19, 1902.)

Sections 14 and 15, act of 1898, applicable in Federal courts only:

The war-revenue act, sections 14 and 15, providing that it shall not be lawful to record or register any instrument, paper, or document, required by law to be stamped, unless a stamp or stamps of the proper amount shall have been affixed, is deemed applicable to Federal courts only by the supreme court of Georgia in the case of Small et al. *v.* Slocumb et al. Not adjudicated by the Supreme Court of the United States. (T. D. 474; February 14, 1902.)

Internal-revenue stamps.

Stamps, issued under internal-revenue laws now repealed, can not be used in lieu of stamps required by the war-revenue law of 1898. (T. D. 19608; June 29, 1898.)

Stamps issued under former law will not protect articles taxable under Schedule B, act of June 13, 1898. Such articles must be restamped. (T. D. 19732; July 19, 1898.)

Stamps imprinted on checks, drafts, or other instruments will not be redeemed. (T. D. 19874; August 10, 1898.)

Allowance for certain adhesive stamps—

An allowance may be made for certain adhesive stamps issued and sold to persons exclusively for resale upon presentation of the stamps through the collector from whom the stamps were purchased, accompanied by a claim for allowance, with an affidavit as to the facts of purchase for resale and that the purchaser had no use for said stamps. (This ruling is made in absence of a law authorizing the redemption of stamps.) (T. D. 20199; October 17, 1898.)

Internal-revenue stamps—Continued.

Erroneous use of stamps—

In cases where stamps have been used on instruments not requiring stamps, or where by error a stamp of a greater denonination than required by law has been used upon an instrument requiring a stamp, the amount paid for said stamps may be refunded upon application made therefor on Form 46, accompanied by the stamps, and, where practicable, by the instruments or copies thereof to which the stamps have been erroneously attached. (T. D. 19973; August 29, 1898.)

A stamp affixed to an instrument and canceled can not lawfully be removed therefrom and affixed to another instrument requiring a stamp—amounts paid for stamps used in error, or in excess, or on instruments defaced or found to be defective and for which a substitute is prepared and stamped, may be refunded. (T. D. 20125; October 3, 1898.)

Discount on stamp purchases:

The discount allowed on purchases of revenue stamps in quantities valued at not less than $100 applies only to adhesive stamps under Schedules A and B, war-revenue law. (T. D. 19747; July 22, 1898.)

Posting stamp payments:

Special-tax payers must post conspicuously in their places of business the stamps indicating payment of the special tax. (T. D. 20094; September 26, 1898.)

A collector has no discretion as to granting or declining to grant an application for the transfer of a special-tax stamp. (T. D. 20338; November 16, 1898.)

A member of a firm who, upon its dissolution, carries on the business himself without associating any other person with him therein, is entitled to continue the business under the firm's special-tax stamp and to have such stamp transferred to any other place to which he removes the business. (T. D. 20346; November 19, 1898.)

As to the power of collectors to stamp unstamped instruments, section 3422, Revised Statutes, is made applicable to the act of June 13, 1898, by section 31 of the latter act. (T. D. 20441; December 15, 1898.)

Internal-revenue law repeal.

The Commissioner calls the attention of collectors and of other officers of internal revenue to the act of Congress, April 12, 1902, entitled "An act to repeal war-revenue taxation, and for other purposes." (T. D. 500; April 16, 1902.)

Instructions to revenue agents:

Revenue agents are instructed, and they will so instruct their employees, that where an examination discloses irregularities and violations of law involving the necessity of a report to this office, the report must show the number of each fermenting tub, the condition of the same, whether full, empty, being filled, or emptied, and also the day and the hour the same were last filled previous to the day on which the examination is made as appears from the entries in the records of the officer in charge of the same; and in case the record is in arrears so as to prevent furnishing the information required, the revenue agent will file charges against such officer for dereliction of duty. (T. D. 439; December 3, 1901.)

Internal-revenue officers.

In all cases where charges of dereliction of duty, inefficiency, or other complaints are made to this office against subordinate officers or employees in the Internal-

Internal-revenue officers—Continued.

Revenue Service by collectors or agents, care should be taken to state specifically in the report the status of the person against whom the charge or complaint is made. (T. D. 56; March 1, 1900.)

Rules of Commissioner regulating the form and execution of official bonds of gaugers, storekeepers, and storekeepers and gaugers. See Internal-Revenue Circular, No. 576. (T. D. 171; July 2, 1900.)

Regulations governing correspondence with the Office of Internal Revenue. (Int. Rev. circular, No. 550, addressed to collectors, as to official duties. (T. D. 29; February 1, 1901.)

The United States circuit court has no original jurisdiction in the case of a suit against a collector of internal revenue to recover taxes alleged to have been illegally collected, when the parties are citizens of the same State and the amount claimed is less than $2,000. (T. D. 117; May 1, 1900.)

J.

Jamaica ginger—Special tax.

The special tax of a rectifier and liquor dealer is not required to be paid for the manufacture for sale of a compound of distilled spirits and ginger called "essence of Jamaica ginger," which is prepared and sold for use as a medicine only under the proper label, notwithstanding the fact that in occasional instances it is found that persons use it as a beverage. (T. D. 428; November 1, 1901.)

Judgment debtors.

Instructions to United States marshals:

The attention of United States marshals is directed to the "regulations" of the Bureau of Internal Revenue, the last paragraph of which provides that on the 1st day of October in each year marshals will report to the Commissioner the situation of all judgment debtors of the United States under the internal-revenue laws within their respective districts, so far as they have any knowledge upon the subject, and will advise such proceedings in the premises as they shall deem proper. (T. D. 703; September 28, 1903.)

K.

Ko-nut.

Cocoanut butter under act of 1886:

Cocoanut butter manufactured from "pure cocoanut butter fat extracted from the shredded white meat of cocoanut," is held to be made from a vegetable oil. When thus made, if it remains free from admixture with other substances, it is not oleomargarine in contemplation of the law. But when mixed with coloring matter or other substances it becomes oleomargarine, under the last paragraph of section 2 of act of August 2, 1886, and a tax of 2 cents a pound is required by section 8 of that act to be paid thereon. (T. D. 277; January 12, 1901.)

Ko-nut not taxable as oleomargarine:

Ko-nut, a refined cocoanut oil, being more an imitation of lard than butter, and being put up in tin pails after the manner of lard and lard substitutes, not in prints or rolls like butter, and the manufacturers disclaiming any intention of holding it out as an imitation of butter, has been held not subject to tax as oleomargarine. (T. D. 344; May 11, 1901.)

Ko-nut can not be regarded as a fat or vegetable oil in the semblance of butter, and should not be considered as oleomargarine, according to precedents. (T. D. 277; February 12, 1901.)

L.

Lard substitute.

Substitute for lard is not taxable as oleomargarine:

A lard made for and used as a substitute for butter, not having the essential elements of butter and not sold for butter, can not be regarded as oleomargarine under section 2, act of August 2, 1886, and therefore is not subject to the tax imposed upon colored or uncolored oleomargarine. Quoting from Judge Grosscup: "It in no way way steals any of its qualities or appearances from the product of the cow." (T. D. 615; January 12, 1903.)

Leaf tobacco.

Entering sales in Book 59:

Collectors of internal revenue are advised that sales of leaf tobacco should not be entered in Book 59 until date of actual delivery or shipment to purchaser. (T. D. 826; September 8, 1904.)

Modification of Treasury decision of November 17, 1898:

Modifying the ruling, 20339, made November 17, 1898, of the Commissioner, that leaf-tobacco dealers are privileged to manipulate leaf tobacco in a manner to produce the quality of tobacco known as Black Fat, etc., without qualifying as manufacturers of tobacco. They are privileged to export this product the same as other leaf tobacco without the execution of an export bond. They are permitted to sell the leaf tobacco to other leaf-tobacco dealers, manufacturers of tobacco, snuff, or cigars, and to persons known to be purchasers of leaf tobacco for export. They are not permitted to sell this class of tobacco to vessels engaged in the coastwise trade, nor to any person other than those mentioned above, without payment of the tax on the quantity thus sold. (T. D. 682; July 21, 1903.)

The sale of leaf tobacco by farmers:

Paragraph second of the act approved April 12, 1902, regards every person as a manufacturer of tobacco who sells his leaf tobacco in its natural condition to consumers, or to persons other than registered dealers in leaf tobacco, manufacturers of tobacco or cigars, or persons who buy leaf tobacco in packages for export; and all leaf tobacco so sold by such person is regarded as a manufactured tobacco subject to tax; but there is this exception, that farmers and growers are not to be regarded as manufacturers for selling *leaf* tobacco of their own growth and raising. (T. D. 635; March 12, 1903.)

Sale of manufactured leaf by dealer in tobacco:

A manufacturer of tobacco who puts up leaf tobacco for sale or consumption must pack his product in statutory packages, as defined by the regulations. A manufacturer may consign his product to himself and dispose of it as a dealer in tobacco in premises separate from his factory, and may remove his business to new location without changing its status, but if manufactured tobacco products are sold by an itinerant tobacco dealer traveling from place to place, such business would be regarded as that of a peddler of tobacco and he would be required to qualify as such. A "hand" of leaf tobacco having no covering, but with stamp and caution notice attached, is not held to be a proper package. (T. D. 741; January 9, 1904.)

Sellers to the retail trade are manufacturers:

Under section 69 of the tariff act approved August 28, 1894, persons who buy leaf tobacco from farmers and sell it to the retail trade in the hand or bunch, in its natural condition, are regarded as manufacturers of tobacco and must qualify as such. (T. D. 739; January 7, 1904.)

Leaf-tobacco sales.

Farmers and growers of tobacco are privileged to sell leaf tobacco of their own growth and raising (and that received from tenants as rent) and in its natural condition without restriction, but the farmer must sell his tobacco in the condition in which it was cured on the farm, and can not stem, twist, plait, roll, sweeten, or otherwise manipulate it for sale to consumers. No person can lawfully be employed by a farmer as his agent to sell and deliver his tobacco to consumers. (T. D. 497; April 7, 1902.)

Leases. (See also Decision 19932.)

A receipt given for money paid under the terms of a lease duly stamped does not require a stamp. (T. D. 19684; July 12, 1898.)

A lease when transferred to a new lessee is subject to a stamp tax for the unexpired term of the lease. (T. D. 20069; September 19, 1898.)

Leases of rights of way are subject to stamp tax under the act of June 13, 1898. (T. D. 20318; November 11, 1898.)

Under the act of June 13, 1898, a transfer of a portion of a lease required the same stamp as the transfer of a whole lease. (T. D. 399; August 7, 1901.)

Leases embodying powers of attorney must pay the tax required to be paid on both instruments. (T. D. 282; February 15, 1901.)

When an *interest* in a lease is assigned the assignment is subject to taxation. The rate is a proportional one, and based on the rate that would accrue were the lease, instead of an interest in the same, assigned. (T. D. 20915; March 24, 1899.)

Legacies.

Distributive shares under act of 1902:

Under section 3, act of Congress approved June 27, 1902, collectors are instructed that where the decedent died prior to July 1, 1902, and the distributive shares or legacies absolutely bequeathed were not distributed to or among the beneficiaries on or before the date named, on account of the time allowed by State laws to settle the estate and distribute or disburse the personal property, or on account of litigation, such legacies and distributive shares are subject to tax. (T. D. 552; July 15, 1902.)

Refunding legacy taxes:

Rules and regulations established by the Commissioner for refunding taxes paid by corporations, associations, societies, or individuals, as trustees, upon bequests or legacies, under section 1, act of June 27, 1902, require that, in all cases, the claim for refunding should be made under oath before an internal-revenue officer, or an officer with a seal, and must be accompanied by satisfactory evidence as to the character of the corporation, association, or society, and evidence as to whether the tax was paid from the corpus of the estate or from the individual legacies. (T. D. 543; July 3, 1902.)

Refunding tax on legacies for religious, charitable, or educational uses:

Refund of tax on legacies and bequests for uses of a religious, charitable, or educational character; refund of tax on export bills of lading; refund of tax on contingent beneficial interests, which had not become vested July 1, 1902. No tax to be assessed on contingent beneficial interests not vested July 1, 1902. Taxes upon securities delivered or transferred to secure the future payment of money remitted. (T. D. 541; July 1, 1902.)

Legacy tax—Beneficial interests.

The exemption from tax of any "contingent beneficial interest which shall not become absolutely vested in possession or enjoyment prior to * * * July 1, 1902," under the act of June 27, 1902, in the opinion of the Attorney-General, relates only to "interests which might never vest" because depend-

Legacy tax—Beneficial interests—Continued.

ent upon contingencies which might never happen; and the words "vested in possession or enjoyment," in the third section of the act of June 27, 1902 simply "mean that the contingency had been removed prior to July 1, 1902." (T. D. 595; November 14, 1902.)

A legacy, or beneficiary interest in an estate created by will, is subject to tax whether the beneficiary divest himself or herself of the right to the estate or not, and the returns of tax should be reported on Form 419. (T. D. 599; December 1, 1902.)

The Supreme Court of the United States holds, in the case of Moore, collector, *v.* Ruckgaber, executor, etc., October term, 1901, that the sections of the act of June 13, 1898, imposing legacy tax, do not apply to deceased persons domiciled abroad who left property by will executed in this country. (T. D. 490; March 21, 1902.)

Legacy tax—Attorney-General's opinion.

The Attorney-General, in an opinion dated August 1, 1902, as to the proper construction of section 3, act of June 27, 1902, referring to refunding taxes paid upon legacies and bequests, etc., holds that the first paragraph of said section authorizes the refunding of all taxes paid on contingent beneficial interests that had not become vested prior to July 1, 1902. The second paragraph directed that no tax be "assessed" or "imposed" after the passage of said refunding act (approved June 27, 1902) upon any contingent beneficial interest not "absolutely vested in possession or enjoyment prior to said July 1, 1902." The words "contingent" and "vested" should be given their technical legal significance in each paragraph. (T. D. 570; August 27, 1902.)

The taxable value of a reversionary legatee's interest is the present worth of such interest, as ascertained by the tables at the time the value of the life interest in the same fund was determined. (T. D. 482; March 11, 1902.)

Nonresident alien legacy:

The Commissioner promulgates, for the guidance and information of all concerned, several decisions of the Supreme Court of the United States relative to tax imposed upon the passing of any legacy or distributive share arising out of the personal property of a nonresident alien who has never resided or had domicile in the United States. (T. D. 490; March 21, 1902.)

Reversionary interests:

The Commissioner holds that, pending the decision of the courts as to the taxability of reversionary interests under the war-revenve act and the amendatory act of March 2, 1901 (see circular 646), all such interests vested prior to July 1, 1902, are held to be taxable, although not vested in actual possession or enjoyment prior to that date. (T. D. 706; October 2, 1903.)

Property passing to a legatee by virtue of a power of appointment granted under the will of one dying prior to the act of June 13, 1898, and exercised by the donee subsequent thereto, is held not subject to legacy tax. (T. D. 677; July 8, 1903.)

Remainder interests:

Where, upon the death of the life tenant, the remainder interest is to pass to his or her child surviving, or, if deceased, to the issue of such deceased child, or, if leaving no issue, to the next of kin of the testator. *Held*, that in such case the remainder immediately vests in the child of the life tenant if living at the time of the testator's death. (T. D. 660; May 11, 1903.)

Property passing by appointment, under will:

It was formerly held by this office that where a legatee became entitled to a legacy through the exercise of the power of appointment subsequent to June

Legacy tax—Attorney-General's opinion—Continued.

Property passing by appointment, under will—Continued.

13, 1898, the legacy tax was required to be paid (T. D. 274). The courts have rendered three decisions on this question since that ruling was made, which have been adverse to the Government. These decisions will be followed hereafter. (T. D. 677; July 8, 1903.)

Legacy tax—Remainder interests.

Estates left in trust, the income payable to a beneficiary during life and the remainder to the children of the life tenant, are vested in the children who are living at the decease of the testator, subject, however, to open and let in all those who may be born thereafter. (T. D. 638; March 16, 1903.)

Rules as to applications for refunding:

As to rules governing applications for refunding taxes paid on contingent beneficial interests under section 3, act of June 27, 1902, it is held that such claims should set forth in detail the clause or clauses of the will under which the alleged contingent interests arose and the names of the legatees to whom such interests were ascribed as passing. In cases where estates have not been closed, the claim should be made by the executors or administrators. (T. D. 718; November 18, 1903.)

Tax payable one year from decedent's death:

The law requires payment of tax within one year from death of decedent. The whole tax of life tenant is required to be paid, whether accumulated income equals the tax due or not. Tax on remainderman's interest to be deducted from the corpus of the estate. (T. D. 467; February 1, 1902.)

The proceeds from a life-insurance policy, payable to a party insured or his legal representative, is a part of decedent's estate. If payable to some one else, the proceeds are not to be treated as a part of his estate, but are payable direct to the beneficiaries named in the policy, and are not subject to legacy tax. (T. D. 479; March 6, 1902.)

Where a life interest in an estate actually vests in possession of a second life tenant, before assessment of tax is made, by reason of the death of the former life tenant, tax in such cases will be computed on the life expectancy of the tenant in actual possession. (T. D. 598; December 1, 1902.)

Five per cent penalty and interest:

As to the penalty of 5 per cent and 1 per cent interest, monthly, on estates, the amendment by section 11, act of March 2, 1901, of section 30 of the legacy-tax act of June 13, 1898, whereby it is provided "that the tax or duty aforesaid shall be due and payable in one year after the death of the testator," applies only to estates in which the testator or intestate died on or after July 1, 1901, the date set by the statute for this amendatory provision to become operative, and that the law as thus amended has no effect in any case in which the testator or intestate died prior to July 1, 1901, these cases being governed by the original law. (T. D. 842; November 16, 1904.)

Litigation pending as to legacies provided by will:

Where a legacy is provided by will and a suit, involving the terms of the instrument and the estate, is pending in court, the revenue collector is instructed that the executor should file with him a return on Form 419, revised, filled out according to the provisions of the will; an appraisement of the personal property of the estate filed with the papers; also a statement of the liabilities of the estate and a copy of the will. The tax assessment should then be stayed until the suit is decided and the amount of tax determined. (T. D. 523; May 17, 1902.)

Legacy tax—Remainder interests—Continued.

The law as affected by domicile:

Where the decedent was a nonresident at the time of death, in order to determine whether the case comes within the principle laid down by the Supreme Court in the case of Eidman *v.* Martinez, and that of Moore *v.* Ruckgaber, if a domicile abroad is alleged, there should be evidence furnished, a sworn statement from either the executor or administrator, or from the person legally authorized to act for the estate, as to the nature of the domicile, and this office will determine from the facts of the case whether such residence abroad was, in a strictly legal sense, his domicile, his fixed, permanent home and principal establishment. It must be established that there was no intention of returning to the United States and resuming his domicile here. (T. D. 506; April 21, 1902.)

Ascertaining value of interests:

Moneys collected from rents which accrued after death of testator not subject to legacy tax, but rents accrued before death, but not paid, are considered personal property of testator's estate. (T. D. 342; May 8, 1901.)

The tables adopted by the Bureau of Internal Revenue for purposes of ascertaining the value of the interests of legatees that receive the income of personal property for life are not a part of the legacy law, and can not be taken to estimate the value of a life interest if the beneficiary has already deceased. (T. D. 598; December 1, 1902.)

The legacy tax is a lien upon the entire property of the deceased, whether real or personal. (T. D. 389; July 29, 1901.)

Collectors instructed to examine probated wills:

An internal-revenue tax being imposed on legacies and distributive shares of estates where the decedent died on or after June 13, 1898, leaving a personal estate exceeding $10,000, collectors and revenue agents are required to examine all wills filed for probate in the offices of registers of wills or other similar offices, and forms for making return of tax should be furnished executors and administrators, and they be notified of their liability. (T. D. 20415; December 10, 1898.)

Deduction by State inheritance tax:

Where a legacy is reduced to a sum less than $10,000 on account of the deduction of the State inheritance tax, it is held that the State inheritance tax is a proper deduction from the legacy as an expense. (T. D. 266; January 17, 1901.)

Refunding under act of 1901:

Legacy taxes paid since the passage of the act of March 2, 1901, amending the war-revenue law, may be refunded. The act is not retroactive in its effect, and no taxes collected under the law as it existed prior to March 2, 1901, can be refunded unless the courts decide that they were illegally collected. (T. D. 336; April 30, 1901.)

Notice to the collector:

Section 30 of the act of March 2, 1901, amendatory of the war-revenue law, provides that every executor, administrator, or trustee, having in charge or trust a legacy or distributive share, shall give notice thereof to the collector within thirty days after he shall have taken charge of such trust. No special form of notice is prescribed, except that it must be in writing. (T. D. 330; April 22, 1901.)

Legacy tax payable after June 13, 1898:

Where a legatee becomes entitled to a legacy through the exercise of the power of appointment, subsequent to June 13, 1898, legacy tax is required to be paid. (T. D. 274; February 8, 1901.)

Legacy tax—Remainder interests—Continued.

Fluctuation of stocks after appraisement:

Fluctuation of stocks after appraisement should not be considered in ascertaining the value of an estate for the purpose of assessing legacy tax. When a substantial sum is realized on a note or any personal property appraised as of no value, it is evident such appraisement was erroneous, and the amount actually realized should govern in assessing the legacy tax. (T. D. 408; August 26, 1901.)

In case an estate is to be divided by the heirs without administration, legacy return and payment of tax are required. (T. D. 409; September 3, 1901.)

Where a legacy exceeds $10,000, but by deduction of debts and legal expenses it appears that such legacy would be reduced to $10,000, or under, the executor must make a return and file copy of the will and schedule of assets and liabilities. (T. D. 431; November 4, 1901.)

Legacy under nuncupative will:

Legacies under a nuncupative will are subject to legacy tax. Such a legacy can not be considered as a debt. (T. D. 411; September 24, 1901.)

The whole amount of the beneficial interest of a legatee is to be considered in determining the rate of legacy tax. (T. D. 392; August 1, 1901.)

Section 29, act of June 13, 1898, as amended by act of March 2, 1901, imposing a tax on legacies, applies only where the testator or intestate died after the act was passed. Taxes collected prior to the amendatory act can not be refunded pending decision of the courts. (T. D. 336; April 30, 1901.)

Literary, charitable, educational uses exempt:

Referring to the legacy of $10,000 left by Redford F. Warner to the Philadelphia School of Design for Women, the Commissioner holds that a legacy for literary, charitable, or educational uses on which tax has not been paid prior to March 1, 1901, is exempt from tax. (T. D. 309; March 25, 1901.)

Real estate mortgage indebtedness:

A real estate mortgage indebtedness is not a proper charge against the personal estate, as regards the liability of the estate to legacy tax. (T. D. 449; December 16, 1901.)

Rules as to legacy returns:

Where collector is satisfied that a bequest is for $10,000 even, and the residuary estate is bequeathed absolutely to the widow, no return is necessary. Executors should make return and pay the tax before turning legacy over to trustee. Corporate stock is held to be personal property, regardless of the nature of corporation. What is required of a legacy return. Fair market value at the date of decedent's death the measure of value of personal property. (T. D. 435; November 25, 1901.)

Taxes deductible from legacy:

A legacy to a partnership is considered a legacy to each partner that comprises the firm. The firm is not to be treated as an entity. (T. D. 267; January 17, 1901.)

Legacy taxes under the act of June 13, 1898, as amended, due and payable in one year after the death of the testator. Taxes are to be deducted from the legacy. The notice required to be given to the collector by the executor, etc., within thirty days after he qualifies, must be in writing. No special form is prescribed. (T. D. 330; April 22, 1901.)

Legacy return, Form 419, should be made and the tax paid to the collector or deputy collector of the district of which the deceased person was a resident. The nonresident mentioned in the statute is held to mean a person residing outside the jurisdiction of the United States. (T. D. 442; December 7, 1901.)

Legacy tax—Remainder interests—Continued.

Accumulations not taxable:

Accumulations, income, and additions accrued and received subsequent to the death of testator are not taxable; also depreciations and losses arising subsequent to death of testator are not to be considered in ascertaining the value of the estate. Former ruling inconsistent herewith revoked. (T. D. 388; July 27, 1901.)

Accumulations from dividends and interest in the hands of an executor or administrator are taxable, as the tax is on the "clear value" of the legacy, or beneficial interests. (T. D. 349; May 25, 1901.)

Date of testator's death:

The date of the testator's death is held to be the date of passing an estate, and the respective interests of beneficiaries vest at that time. The settlement of the estate is assumed to be of that date and the taxable value of legacies is determined as of the date of testator's death. (T. D. 422; October 22, 1901.)

Legal effect as to adopted child:

Adopted child considered as a stranger in blood to the foster parent for the purpose of taxation under the war-revenue law. When the will provides a life interest in certain property to widow and remainder to her issue, the interest of a daughter is a vested interest. It is the daughter's expectancy of outliving her mother, as demonstrated by the tables, which fixes the status of her interest. (T. D. 437; November 25, 1901.)

A legacy to an adopted daughter is subject to tax, as a stranger in blood to testator. Former rulings inconsistent herewith are revoked. (T. D. 367; June 22, 1901.)

It is not the intention of the office to require returns and the payment of legacy tax on reversionary interests where estates have been settled prior to July 1, 1901, in accordance with rulings then in force. (T. D. 420; October 17, 1901.)

Interest of remainder-man:

In the matter of legacy taxes, a reversionary interest is not vested in a remainder-man when the remainder-man is older than the life tenant, until, if ever, the property vests in possession of the remainder-man. (T. D. 436; November 25, 1901.)

Stock in real-estate corporation is held to be taxable as personal estate when passing as an inheritance or legacy, in contemplation of the war-revenue law. (T. D. 386; July 25, 1901.)

Legacies and distributive shares.

Documents subject to stamp tax:

Where the distribution of legacies or distributive shares requires documents taxable according to other provisions of the act of June 13, 1898, the documents should be stamped regardless of the payment of a legacy tax. (T. D. 21781; November 17, 1899.)

Leases or household estates, and the income therefrom, are considered as personal property as far as the internal-revenue law is concerned. (T. D. 21877; December 23, 1899.)

Legacies exceeding $10,000:

Legacy tax accrues where the whole amount of personal property left for distribution, after payment of legal debts and expenses, exceeds the sum of $10,000, without regard to the amount or value of each legacy or share. The tax is to be paid out of the separate legacies unless the testator's will provides otherwise. (T. D. 21649; October 10, 1899.)

Taxes on life interests, or interests for given periods, should be paid at one time, and not annually. (T. D. 21778; 1899.)

Legacies and distributive shares—Continued.

Opinion of Attorney General:

Construing section 29, act of June 13, 1898, relative to the taxation of legacies and distributive shares arising from the will of a testator, under the laws of any State or Territory, the Attorney-General, in an opinion rendered January 5, 1899, holds that it is the purpose of the law not to levy a tax upon the gross amount of estates in the hands of executors, administrators, etc., but to tax such legacies and distributive shares, arising from personal property, as exceed $10,000 in actual value. The tax is upon the legacy or distributive share, not upon the estate. (T. D. 20545; January 12, 1899.)

The whole amount of personal property left for distribution after payment of legal debts and expenses determines the rate of tax imposed on legacies and distributive shares, without regard to the amount or value of each legacy or share. (T. D. 20587; January 18, 1899.)

Life interest taxable in entirety:

Where a life interest in an estate is terminated by death, the entire amount of the legacy to be distributed to the reversionary legatee is subject to tax under the war-revenue law. (T. D. 21469; August 4, 1899.)

Returns as to life interests of husband and wife:

Where the wife or the husband is left a life interest in the whole or a portion of the personal estate, a return should be made. (T. D. 21230; June 3, 1899.)

Where persons derive their interest in personal property through the exercise of power of appointment by a person dying after the passage of the act of June 13, 1898, this power having been granted by the will of a person dying possessed of this property *prior* to that act, legacy tax is required to be paid on such interests. (T. D. 21256; June 10, 1899.)

Legacy decents:

A legacy left to a half-brother is subject to legacy tax the same as though it were left to a whole brother. (T. D. 21339; July 1, 1899.)

In the case of a decedent who executed a will in New York, where she was then residing, but whose domicile at the time of her death was not in the United States, the tax accrues on legacies under the act of June 13, 1898. The law makes no discrimination between the estates of resident and nonresident decedents. (T. D. 21052; April 24, 1899.)

Where the State law permits estates to be settled without making appraisal, an appraisal made by the executor under oath and filed with the collector will be accepted, unless there is some reason for questioning it. (T. D. 21340; July 1, 1899.)

Where mortgages and notes are assets of an estate, moneys derived therefrom, although so derived through foreclosure and sale of the real estate by the executor or administrator, should be included in the personal property left for distribution. (T. D. 21049; April 22, 1899.)

Recovering legacy taxes:

When an executor, administrator, or trustee has distributed an estate, on which tax has accrued, under section 29 of the act of June 13, 1898, without first paying the legacy tax required by law, the assessment having been made and the demand notice, Form 455, having been served on said executor, the amount of said tax, interest, and costs, becomes a lien upon the property of said executor. (Sec. 3186, Rev. Stat.) The proper course to pursue to recover legacy taxes in such cases would be either by distraint or by a proceeding in the circuit or district court of the United States. (T. D. 21078; May 2, 1899.)

Tax on legacies a lien:

Tax on legacies is a lien on the personal property of the decedent and not upon the real estate. (T. D. 21147; May 10, 1899.)

Legacies and distributive shares—Continued.

No tax on legacy created prior to 1898:

Where a person died on or after the passage of the act of June 13, 1898, leaving a personal estate, etc., legacy tax accrues at once on distributive shares and on legacies where no life estate intervenes. There is no tax on legacies under the will of a person who died prior to June 13, 1898, unless the right of the legatees to the possession and enjoyment of their legacies is postponed to a date subsequent to June 12, 1898. Legacies paid out of the proceeds of real estate directed to be sold for that purpose are not subject to legacy tax. (T. D. 20988; April 11, 1899.)

Interest of widow in an estate:

Section 29 of the act of June 13, 1898, took effect immediately, being expressly within the exception in section 51 of the same act, which "declares" that this act shall take "effect on the day next succeeding the date of its passage, except as otherwise specially provided for." The personal property going to the widow is to be included in making up the total value of the estate for the purpose of determining whether the "whole amount" of personal property, out of which legacies and distributive shares are to be paid, exceeds the "sum of ten thousand dollars in actual value." (T. D. 20950; April 3, 1899.)

Testamentary legacies:

Accumulations from dividends and interest in the hands of the executor or administrator must be included in making up the value of personal property. They are not taxable until ready for distribution, and then they are taxable the same as the rest of the estate left by decedent. The clear value of the legacies is subject to tax. In the partial distribution of estates the return should state the facts, and a record should be kept in the collector's office, showing the condition of the estates. (T. D. 21024; April 15, 1899).

An advancement made by a parent to his or her child should be taxed as a legacy upon the death of the parent if notes were given for such advancement and constitute a part of the assets of the estate liable for debts. (T. D. 20675; February 3, 1899.)

A bequest made to the city of Springfield, Ohio, in Government bonds, the income to be expended in the maintenance and improvement of a public park, taxable under the act of June 13, 1898. No exception is made in case of bequests for benevolent purposes, or bequests to a city. The tax is not upon the property, but upon the right to dispose of it. A bequest of Government bonds liable, as the tax is not upon the bonds. (T. D. 20791; March 6, 1899.)

It is expected that the legacy tax will be collected by internal-revenue officers without assistance from informers, and no inducements are offered in the way of reward to persons giving information in regard to estates liable to legacy tax. (T. D. 20882; March 20, 1899.)

If the legal debts and expenses allowed by the court reduce the whole amount of personal property of an estate so that the whole amount of personal property left for distribution does not exceed $10,000, no tax accrues. (T. D. 20589; January 19, 1899.)

The sum of $1,000 left by the will of testator to trustees to purchase a burial lot and erect a gravestone is not subject to legacy tax. (T. D. 21043; April 19, 1899.)

No legacy tax accrues in a case where the testator died prior to June 13, 1898, even though part of the estate is still in the process of settlement, if there is nothing in the terms of the will which postpones the right of the legatees to the immediate possession and enjoyment of their legacies upon the death of the testator. (T. D. 20946; March 31, 1899.)

Legacies and distributive shares—Continued.

Income from United States bonds nontaxable:

Income from personal estate invested in United States bonds by executor under provisions of the will remaining in the hands of the executor is not subject to tax, but legacies, etc., represented by said bonds are subject to tax before distribution. Schedule or list of the personal property should be prepared and returned by the executor or administrator at an early date after decedent's death. When legacies are subject to tax. When legacy tax accrues. When payable. Widow's share exempt. (T. D. 20591; January 19, 1899.)

Legacies of real estate:

A legacy tax is collectible on the fractional parts of $100. (T. D. 20237; October 21, 1898.)

Distributive shares, arising from personal property of an estate, are not relieved from legacy tax by the fact that they are represented by United States bonds. (T. D. 20188; October 12, 1898.)

Legacies paid out of the proceeds of real estate, directed to be sold for that purpose, are not subject to the tax upon legacies arising from personal property. In case the debts and claims against the estate exceed the appraised or clear value of the personal property, there can be no legacy tax; a return should be made by the executor, etc. (see Circular 517, revised). On executor's refusal or failure to make return, see sections 30 and 31 of the act of June 13, 1898, and section 3172, Revised Statutes. Where estates consist of both real and personal property, the whole amount of the personal property should be appraised separately from the real property. (T. D. 20596; January 20, 1899.)

Legacy to a daughter-in-law is subject to tax under paragraph 5, section 29, act of June 13, 1898. (T. D. 20608; January 24, 1899.)

Grounds of legacy tax:

1. A legacy tax, collectible on life interests, must be computed on a gross sum, not annually.
2. Where the real estate and personal property consist of a building with machinery, all leased as a whole for twenty years at a fixed yearly rental, tax must be paid on the appraised value of the twenty years leasehold.
3. The law only requires the executor of an estate to pay legacy tax before the distribution of legacies to legatees, on the clear value thereof. (T. D. 20368; November 21, 1898.)

Attorney-General construes law as to legacies:

Construing section 29, act of June 13, 1898, the Attorney-General holds that it is the purpose of the law not to levy a tax upon the gross amount of estates in the hands of executors, administrators, etc., but to tax such legacies and distributive shares arising from personal property as exceed $10,000 in actual value. The tax is upon the legacy or distributive share, not upon the estate. (T. D. 20545; January 12, 1899.)

Where testator dies, leaving an estate of $120,000, to be equally divided between his six children—i. e., $20,000 to each—each of said legacies is to be taxed at the rate of $1.50 per $100. (T. D. 20438; December 15, 1898.)

Returns must be made on "whole amount:"

It is imperative that the return be made on the "whole amount" of personal property passing from a person dying on or after June 13, 1898; the fact that the legacy left to the widow is exempt from tax does not relieve the administrator or executor from making such return. (T. D. 20446; December 20, 1898.)

The legacy tax should be deducted from the individual legacies, but is a lien upon the entire property of the decedent. (T. D. 20461; December 23, 1898.)

Legacies and distributive shares—Continued.

Life beneficiary interests taxable:

Legacies in the nature of a life beneficiary interest and remainder-man's interest are both taxable, their values being determined by approved tables under "United States internal-revenue adjustment, 1898." (T. D. 20442; December 16, 1898.)

Property held by trustees under deed:

Beneficial interests held in trust by trustees are subject to tax, even though their taxable value can not be determined in all cases until a certain contingency arises, such as the termination of a life interest. (T. D. 20445; December 20, 1898.)

Where property is held by trustees under a deed of trust executed prior to June 13, 1898, by a person dying on or after said date, and by the terms of the trust the beneficiaries could not become entitled to the possession or enjoyment of their distributive shares until after the grantor's death, taxes are required to be paid on these distributive shares under section 29, act of June 13, 1898. (T. D. 20444; December 16, 1898.)

Tax determined by "whole amount" of estate:

The legacy tax on an estate of personal property is determined by the "whole amount" of the estate and not by the separate legacies. If the laws of the State in which the testator died provide that the adopted child takes the same as the issue of the deceased, then the tax on the legacy to such child would be at the rate of 75 cents, multiplied by 1½ for each $100 of such interest exceeding $25,000, but not exceeding $100,000. If the laws of the State regard the adopted child as a stranger in blood to the testator, the tax would be at the rate of $5, multiplied by 1½ for every $100 of clear interest. (T. D. 20388; November 30, 1898.)

Construction of section 29, act of June 13, 1898:

Section 29 of the war-revenue act is construed to mean that where the value of the whole amount of personal property left by a decedent does not exceed $10,000, no tax is imposed. Where such whole value exceeds $10,000 and does not exceed $25,000, the tax is imposed, and the rate of tax upon the clear value of each share is determined by the degree of relationship of the beneficiary. Where the value of the whole amount of the personal property left by a decedent exceeds $25,000, the rate of tax upon the clear value of each share is determined by the degree of consanguinity and by the value of the whole amount. (T. D. 20089; September 21, 1898.)

Heirlooms not exempt:

Internal-revenue laws do not exempt heirlooms from legacy tax. A legacy conditioned on legatee marrying is subject to tax, but the tax is not payable until the legacy is payable. Payment of legacy tax before distribution is imperative. (T. D. 20392; December 3, 1898.)

The value of an income payable to a person for life is to be determined by approved tables. Legacy tax is required to be paid thereon. Legacies to charitable institutions are not exempt from tax. (T. D. 20421; December 13, 1898.)

The war-revenue act, imposing a legacy tax, does not apply to estates in process of settlement prior to the passage of the act, or where the grantor died before June 13, 1898. (T. D. 19561; June 23, 1898.)

Legacy tax determinable from inventory and appraisement:

The legacy tax may be determined by the value of an estate taken from the inventory and appraisement made under oath and filed in the office of the register or other probate officer. If the personal property of an estate exceeds $10,000 in value, the tax accrues, though the aggregate of the separate shares be below that amount. (T. D. 20061; September 15, 1898.)

Liquors—Special tax.

A fermented liquor made from hops and sugar and sold under the name "hop beer" or any other name, if it resembles in general character, taste, etc., the fermented malt liquor called "weiss beer," however small its alcoholic strength, is subject to tax under the first section of the war-revenue act, and persons who manufacture it for sale are required to pay special tax as brewers and tax on this beer, and also special tax as malt-liquor dealers for selling it in bottles. (T. D. 20233; October 22, 1898.)

A person who sells blackberry wine (a fermented liquor made from blackberry juice) is required to pay special tax as a liquor dealer for selling the wine, unless he is the manufacturer of it and has made it from berries grown by himself or gathered wild by himself or by persons in his employ, and the wine is sold by him only at the place of manufacture or at his one "general business office" (sec. 3246, Rev. Stat.). When he bottles the wine for sale he must pay stamp tax and affix the requisite stamp on each bottle. (T. D. 20366; November 21, 1898.)

Opinion of the Attorney-General on the question of the liability of retail dealers to the additional tax of $1 a barrel on fermented malted liquor, bought prior to June 14, 1898, and held in stock on that date, is that the act, as amended, still holds the brewer or manufacturer liable to the tax of $2 instead of $1 a barrel. (T. D. 20464; December 28, 1898.)

Beer in hands of brewers—Increased tax:

The Attorney-General has decided that only beer in the hands of brewers, or stored in warehouse by them, is subject to the increased tax. Stock which was stored in hands of wholesale or retail dealers, who were not brewers or agents of brewers, is not subject to the additional tax. Where assessments have been made which by this decision are erroneous, claims can be made for abatement or refund, as the case may be. (T. D. 20487; January 3, 1899.)

Failure to affix necessary stamps:

The Attorney-General, in opinion rendered December 30, 1898, holds that in case of evasion and willful failure to buy and affix the necessary stamps on fermented liquors the tax should be collected and assessed at its full amount, $2 per barrel. The discount provided by the war-revenue act does not apply to the additional tax, which must be assessed at the full rate, viz, $1.

Ingwer liqueur:

Ingwer liqueur, composed of alcoholic liquor and sugar, with a flavoring of ginger, is not a medicine under whatever label it may be sold, but belongs in the general class of liqueurs or cordials, for the manufacture of which for sale the special tax of a rectifier must be paid, and for sale of which the special tax of a liquor dealer. (T. D. 20498; January 4, 1899.)

Sales separately made are separately taxed:

Where a retail dealer sells to one person a one-eighth barrel of one kind of beer, a one-eighth barrel of another kind, and so on, upon a single order, he subjects himself to special tax as a wholesale dealer, unless each package differs in price from the other, in which case each is regarded as the subject of a separate sale, or unless (where the beers are similar in price and quality) a separate order is given by the purchaser for each package. In either of these cases each package is to be regarded as separately sold, and the special tax of a wholesale dealer is not required to be paid therefor. (T. D. 20502; January 6, 1899.)

The manufacturer of the compound liquor known as "fake wine" is required to pay special tax as rectifier. Each bottle of the compound is subject to stamp tax under Schedule B, act of June 13, 1898. (T. D. 20509; January 9, 1899.)

Liquors—Special tax—Continued.

Form 46 for refunding additional tax:

In the preparation of a claim for refunding additional tax paid on fermented liquors Form 46 should be used, and an affidavit made by the deponent, showing he (or they) are bona fide owners of the liquor, being neither brewer nor the agent of a brewer, and that he (or they) purchased the same, tax paid, prior to June 14, 1898. (T. D. 20755; February 28, 1899.)

Clubs and retail liquor tax:

In regard to clubs, as to whether they shall pay special tax as retail liquor dealers or as proprietors of a billiard room, it is held that any course of selling, though restricted to a class of persons without a view to profit, is within the meaning of the statute imposing the special tax; but a club is not required to pay special tax as a proprietor of a billiard room by reason of keeping billiard tables for the use of members and invited guests. (T. D. 19745; July 21, 1898.)

The special tax of a retail liquor dealer (or malt-liquor dealer, as the case may be) is required to be paid for the sale of alcoholic liquor at army canteens, if the canteens are not Government agencies and the sales of liquor there are made for individual profit. (T. D. 19994; August 31, 1898.)

Retailing liquor on boats:

A special-tax stamp is not permitted to be issued for the retailing of liquor on any boat that is not engaged in the business of carrying passengers. This is the settled ruling, in view of the joint resolution of Congress of May 8, 1876. (See Compilation, 1900, p. 114.) (T. D. 663; May 23, 1903.)

Ruling 663 (Treasury decision) is not intended to forbid the issuance of special-tax stamps for the retailing of alcoholic liquors on excursion boats. (T. D. 671; June 23, 1903.)

Fermented liquor as a tonic:

A person who manufactures a tonic by the fermentation of molasses, hops, sugar, and wheat bran, produces thereby a fermented liquor made from a substitute for malt, within the meaning of the first subdivision of section 3244, Revised Statutes, and is therefore required to qualify and pay special tax as a brewer, and also special tax as a malt-liquor dealer, for selling beer in bottles (T. D. 646; March 31, 1903.)

A special-tax stamp taken out under the internal-revenue laws by any person as a liquor dealer can not protect him from the consequences of selling alcoholic liquor on a forest reservation, or at any place where such sales are prohibited by other laws or regulations. (T. D. 694; September 14, 1903.)

Liquor sales—Special tax.

Grape cider:

The sale of a beverage called "grape cider," which appears to be a sweetened wine, requires payment of special tax as liquor dealer. (See also Decisions Nos. 27, 48, 55, and 88.) (T. D. 20; January 23, 1900.)

Malt extracts sold by druggists:

Every malt extract composed of malt liquor combined with drugs may be sold by a druggist by the bottle under labels specifying the diseases for which it is held out as a remedy, without involving him in liability as a retail malt-liquor dealer, if he sells it in good faith for medicinal use only. (T. D. 19; January 22, 1900.)

Medical prescriptions:

A physician who prescribes and sells to his patients whisky, brandy, wine, or any other alcoholic liquor that is not compounded into a medicine by the admixture of any drug or medicinal ingredient therewith, is required to pay

Liquor sales—Special tax—Continued.

Medical prescriptions—Continued.

special tax as a retail liquor dealer, even though the alcoholic liquor thus furnished be prescribed as a medicine only and so used. (T. D. 4; January 3, 1900.)

Orders in social clubs:

Every social club that receives orders from its members for alcoholic liquor in any quantity less than 5 gallons, and furnishes the liquor so ordered and collects pay therefor, "or accepts the consumer's promise to pay in the future," sells the liquor to its members and is a retail liquor dealer under the internal-revenue laws, and is required to pay special tax accordingly. (T. D. 8; January 8, 1900.)

Liquor dealers and rectifiers—Special tax.

One special-tax stamp taken out by the proprietor of a pleasure resort under his sole control is sufficient to cover his sales of liquor at any number of separate stands or booths within the grounds composing this resort. (T. D. 169; June 29, 1900.)

The addition of the herb woodroof, or its essence, to Rhein wine, for sale under the name of Mai wine, does not change the wine into a spurious, imitation, or compound liquor, and the special tax of a rectifier is not to be paid therefor. (T. D. 189; July 28, 1900.)

The special tax of a liquor dealer is not required to be paid by a hospital for furnishing alcoholic liquors as medicines to its patients, if it is not conducted for the pecuniary profit of those who are managing and controlling it, but is a public institution, founded and conducted for the general good and not as a business. (T. D. 190; July 30, 1900.)

The addition to spirits of water only does not change the spirits into a spurious, imitation, or compound liquor (section 3244, Rev. Stat., par. 3), and, therefore, the special tax of a rectifier is not required to be paid on this account. (T. D. 194; August 8, 1900.)

Where a person, not otherwise a dealer in liquors, takes a stock of liquors on a chattel mortgage to secure a debt, he is entitled under the exempting provision of the statute to dispose of this entire stock at one sale without paying special tax therefor. (T. D. 204; August 24, 1900.)

Liquor kept for sale in bottles:

A retail liquor dealer who mixes whisky, sugar, and water, and puts the same in jugs and bottles, keeping it in stock in that form, and selling it when called for as other liquors in stock, or who reduces whisky by mixing water and restores the color by the addition of blackberry juice, is a rectifier. See decision of United States district court for middle district of Tennessee (Stark *v.* Nunn) in regard to the liability of retail liquor dealers. (T. D. 121; May 5, 1900.)

One special-tax stamp taken out by a retail liquor dealer for his building covers his sales of liquor by retail at any number of bars in rooms or on premises belonging to that building. (T. D. 142; June 2, 1900.)

Rectifier's tax:

A person who buys berries or any small fruits (except grapes) and makes wine therefrom, does not come within the exempting provision of section 3246, Revised Statutes, in selling such wines, and is required to pay special tax as a liquor dealer for selling it, even if at the place of manufacture. (T. D. 167; June 28, 1900.)

The ruling of July 21, 1897 (Revenue Journal, 1897), modified by the decision of the United States district court in the case of Stark *v.* Nunn, collector,

Liquor dealers and rectifiers—Special tax—Continued.

Rectifier's tax—Continued.

(Treasury Decisions, internal-revenue ruling No. 121), wherein it is held that a retail liquor dealer who compounds spirits, even in quantities less than 5 gallons, and puts them up in bottles or jugs, and keeps them in stock for sale, must be required to pay special tax as rectifier. (T. D. 154; June 12, 1900.)

Alcohol recovered by still is rectification:

The recovery of alcohol by the use of a still is rectification, and every person engaged therein is to be regarded as a rectifier and required to pay special tax accordingly (section 3244, Revised Statutes, third subdivision), except an apothecary who thus recovers alcohol that has been used by him in the preparation or making up of his medicines, the alcohol thus recovered to be again used by him for the same purpose, under the exempting provision of section 3246, Revised Statutes. (T. D. 95; April 13, 1900.)

Alcoholic flavoring sirups:

Where an alcoholic flavoring sirup is used at a soda fountain, for sprinkling into a glass of soda water, the quantity being so small as to give merely a flavor to the water, the special tax of a liquor dealer is not required to be paid for the sale of the beverage. (See ruling 58, T. D., March 8, 1900.) (T. D. 223; October 8, 1900.)

Conviction as retail liquor dealer:

One may be convicted of carrying on the business of a retail liquor dealer without payment of the required tax, though the article is put up in bottles and labeled as an appetizer and he did not know its nature when he bought it, it in fact containing a large per cent of alcohol and nothing of a curative character, and the circumstances of purchases from him being such as to show that his customers are buying it merely as an intoxicant. (T. D. 516; April 12, 1902.)

Whenever a special-tax stamp is issued or transferred, the collector is required to state therein the particular place of business for which it is issued or to which it is transferred. This is an imperative requirement of the law and regulations, and there must be no deviation therefrom for any reason whatsoever. (T. D. 527; May 24, 1902.)

Manufacture of extract partly alcoholic:

The special tax of a rectifier and liquor dealer is not required to be paid for the manufacture and sale of an extract containing a noticeable quantity of alcohol, if it is not itself a beverage or fit for use as a beverage, but is used only as flavoring for a glass of water. The special tax of a liquor dealer is not required to be paid for the sale of a beverage composed of an ounce or two of clare phosphate mixed with a glass of soda water. (T. D. 58; March 3, 1900.)

Malt liquor dealers bottling beer:

Brewers are required to pay special tax as malt-liquor dealers for each and every place at which they are engaged in selling bottled beer and take out a separate special-tax stamp for each distinct and separate place at which such sales are made. (T. D. 102; April 18, 1900.)

Internal revenue circular No. 568, setting forth to collectors instructions relating to special-tax stamps of liquor dealers for the special-tax year ending June 30, 1901. (T. D. 114; May 1, 1900.)

Use of book, Form 52, for entries:

Where persons who are merely retail liquor dealers take out a special-tax stamp as wholesale liquor dealers for the purpose of enabling them to buy spirits at wholesale prices from the distillers, they must keep the book, Form 52, and make entries therein of the packages received and also of the packages set over to themselves as retail liquor dealers. (T. D. 210; September 7, 1900.)

Liquor dealers and rectifiers—Special tax—Continued.

Liquor taken and sold for freight charges:

Where alcoholic liquor shipped in bottles (cases) is taken by a railroad company to secure payment of freight charges the auctioneers of the company may sell the liquor "in one parcel only," under the exempting provision of section 4, act of March 1, 1879—though the quantity sold is less than 20 wine gallons—without involving themselves or the railroad company in special-tax liability. (T. D. 255; December 7, 1900.)

Obscure marking and branding:

Obscure and illegible marking and branding on the stamp heads of wholesale liquor dealers' packages requiring the closest scrutiny to decipher is held not to be in compliance with the law and regulations, and packages so marked hereafter sent out will be subject to seizure. (T. D. 566; August 13, 1902.)

Refusal record of packages received:

The refusal or neglect of any wholesale liquor dealer to enter upon record any distilled spirits received in wholesale packages under pretext that such spirits are received by him in his capacity as a retail liquor dealer, must be regarded as a violation of law (sec. 3318, Rev. Stat.), and the offender reported as subject to the fines and penalties denounced by said section. In this connection, attention is invited to the fact that it is not necessary in such cases to show a fraudulent intent, as the law imposes the fines and penalties for neglect or refusal. (T. D. 455; January 2, 1902.)

Violation of section 3319, Revised Statutes:

Wholesale liquor dealers can not receive for sale packages of distilled spirits from a person who is neither a rectifier, distiller, nor wholesale liquor dealer without violating section 3319, Revised Statutes. But that person can, without sending the packages of spirits to them, make them his agents for their sale, and, on his doing so, they can dispose of the spirits by means of a bill of sale delivered to the purchaser at their place of business where they hold the requisite special-tax stamp, and the person taking such bill of sale can receive the packages of spirits at any other place from the owner of them, and the latter not thereby become involved in special-tax liability as a wholesale liquor dealer. (T. D. 591; October 18, 1902.)

Keeping a demijohn for convenience, not specially taxed:

A retail liquor dealer who reduces with water a small quantity of whisky (less than 5 gallons) and mixes it with sugar, or other material, keeping it in a demijohn or other receptacle, merely for his own convenience in meeting orders of his customers at his bar, and does not make it a practice to put up the compound in bottles in advance of orders therefor for sale, is not to be regarded as having thereby involved himself in special-tax liability as a rectifier.—Ruling 177 (Treasury Decisions, 1900) modified accordingly. (T. D. 418; October 5, 1901.)

Liquor sold in local-option districts:

Every person engaged in sale of liquor in local-option districts must nevertheless pay special tax as liquor dealer under the internal-revenue laws of the United States. His special-tax stamp, however, is not a license, but a receipt for the tax. (T. D. 302; March 18, 1901.)

Goods sold only where kept for sale:

Upon a writ of error to the circuit court of the United States for the ninth circuit to recover special revenue tax as both wholesale and retail liquor dealer, under subdivision 4, section 3244 of the Revised Statutes, the court holds that

Liquor dealers and rectifiers—Special tax—Continued.

Goods sold only where kept for sale—Continued.

goods are offered for sale at the place only where they are kept for sale and where a sale may be effected. They are not offered for sale elsewhere by sending abroad an agent with samples, or by establishing an office for the purpose of taking orders. (T. D. 310; March 25, 1901.)

A trustee of a retail liquor dealer can sell the stock of such dealer at the dealer's place of business at retail without payment of another special tax. (T. D. 412; September 24, 1901.)

Retail liquor dealer receiving wholesale order:

A person holding a special-tax stamp only as a retail liquor dealer is not entitled to accept any order for a quantity of alcoholic liquor amounting to 5 gallons or more, even though he fills the order by shipping from time to time less than 5 gallons. (T. D. 655; April 15, 1903.)

Wholesale malt liquor dealer changing to wholesale liquor dealer:

A person who has carried on business as a wholesale dealer in malt liquors throughout the month of July, and thereafter changes his business to that of a wholesale liquor dealer, and pays special tax accordingly, is not granted by the law any rebate or allowance on account of the special-tax stamp taken out by him in July for the year beginning July 1, notwithstanding the fact that he has no further use for this stamp, by reason of having taken out another special-tax stamp to cover his business as a wholesale liquor dealer. (T. D. 693; September 14, 1903.)

M.

Marks on packages of distilled spirits:

On and after January 1, 1904, under amendatory regulations, every wholesale liquor dealer will be required to mark legibly with a stencil plate, in durable ink, on the head of each package of distilled spirits filled and stamped by him the present proof of the spirits contained in such package, as indicated in the application for stamp to cover the same and as entered in the body of the stamp. Such marking will be in addition to the marks heretofore prescribed and will consist of the word "proof," followed by the numerals denoting the present proof, which will be applied to the head of the package, close to the left-hand margin of the stamp and parallel thereto. (T. D. 716; November 9, 1903.)

It is not necessary for a person qualifying as rectifier for the sole purpose of rectifying for other persons to qualify as wholesale liquor dealer. Book Form 52 should contain careful entries of the packages of spirits received for rectification, stating the date when, the name of the person or firm from whom, and the place whence the spirits were received, etc. (T. D. 640; March 17, 1903.)

Mail carriers—Stamp tax.

Under date of January 4, 1900, this Office, in a letter to the Second Assistant Postmaster-General, held that under the paragraph of Schedule A, act of June 13, 1898, beginning with the words "Express and freight," mail carriers who make a practice of carrying packages from one town to another town, for which they receive a fee, are carriers within the meaning of the law, and must, for each package so carried, issue a receipt, to which receipt must be affixed a 1-cent stamp. (T. D. 478; March 3, 1902.)

Manifests—Stamp tax. (See also Bills of lading; Receipts; and Decision 19605.)

The words "Manifest for custom-house entry," in the act of June 13, 1898, are construed as intending to impose the duty upon manifests of cargoes entering the country as well as upon cargoes clearing. (T. D. 19709; July 18, 1898.)

Manufactured tobacco.

Application of section 3363, Revised Statutes:

Section 3363, Revised Statutes, requires that the "caution" label shall distinctly state that "the manufacturer of this tobacco has complied" with the law, and cautions every person, under legal penalties, not to re-use an emptied tobacco or snuff package. Section 3376, Revised Statutes, likewise prohibits, under penalties of fine and imprisonment, the re-use of any emptied or partially emptied package, wrapper, envelope, etc., of tobacco or snuff, and requires that the stamp thereon shall be destroyed by the person who has possession of such emptied package or wrapper, etc., subject, by neglect, to a fine of $50. (T. D. 518; May 12, 1902.)

Manufacturera' tobacco accounts:

Collectors are not required to make semiannual reports on Forms 144 and 146 of cigar and tobacco manufacturers' accounts for July 1, 1903. The semiannual reports on these forms were required only when there was a change in the rate of tax. (T. D. 674; July 3, 1903.)

Packing plug tobacco:

Manufacturers are authorized, under regulations No. 8, page 45, and the last two paragraphs on page 46, to put up their plug tobacco in pasteboard boxes, which shall contain not less than 1 nor more than 5 pounds of tobacco. (T. D. 683; July 21, 1903.)

Sales through vending machines:

There appears no reason why original stamped packages of tobacco can not be sold through the medium of the vending machine, it being understood that only unbroken stamped packages shall be delivered from such machine. It has been held by this Office that the use of a vending machine can not be approved for the sale of the contents of broken stamped packages of cavendish, plug, or twist tobacco. This ruling will be strictly adhered to, but the objection does not apply when unbroken stamped packages are to be sold. (T. D. 708; October 5, 1903.)

Manufacturers of wine.

Federal v. local tax.

While a person who manufactures wine from fruit of his own growing (or from grapes that are grown by himself or by others) and sells it at the place of manufacture, or at one "general business office," is exempted by the provisions of section 3246, Revised Statutes, from special tax as a liquor dealer under the internal-revenue laws of the United States on account of such sales, yet this exemption does not protect him from prosecution under the laws of his State or under local ordinances for selling his wine in violation of those laws. See on this point section 3243, Revised Statutes. (T. D. 705; October 2, 1903.)

Fruit distillers' record:

The fruit distillers' record No. 25½ has been revised under date of July 25, 1900, and is hereby prescribed for use by all new distillers who shall hereafter commence operations, and by all other distillers so soon as the books now in use shall be exhausted, but in no case later than the close of the current season. The fruit distiller's monthly account, Form 15, has also been revised so as to require, in addition to the information heretofore reported, an account of the brandy sold or removed and the name of the person to whom sent and location. (T. D. 214; September 17, 1900.)

Manufacturers of tobacco—Special tax.

Manufacturers of cigars purchasing leaf tobacco:

Subsection 6, section 3244, Revised Statutes, as amended, provides that it shall be lawful for any licensed manufacturer of cigars to purchase leaf tobacco of any licensed dealer or other licensed manufacturer in quantities less than the original package for use in his own manufactory exclusively, and it is held that section 69, act of August 28, 1894, does not repeal this provision of the former statute. (T. D. 373; June 27, 1901.)

Manufacturers' accounts of leaf tobacco:

Collectors are advised of rules and regulations (No. 8, revised, supplement 2) concerning taxes on tobacco, snuff, cigars, and cigarettes, and relating to rebate of taxes on tobacco, snuff, and cigars held by manufacturers and dealers on the 1st day of July, 1901, under act of March 2, 1901. (T. D. 307; March 23, 1901.)

Manufacturers of tobacco are required to account for all their leaf tobacco on book 74 and store it on the bonded factory premises unless, on account of increased business and contemplated changes in their factory premises, they desire to have the temporary privilege of outside storage. (T. D. 374; June 28, 1901.)

Labeling small packages:

All small packages of plug or twist tobacco containing less than 1 pound of tobacco, under the amended regulations relating to tobacco, shall be properly labeled, and the stamp or stamps affixed to the package must denote the weight of the tobacco contained therein, but it will not be necessary to print or mark on such packages the gross weight, the tare, or the net weight. (T. D. 376; July 6, 1901.)

Unused stamps in manufacturers' hands:

Unused tobacco and snuff stamps, in the hands of manufacturers when the act of March 2, 1901, takes effect, can not be redeemed for the purpose of securing 20 per cent discount. Cigar and small cigarette stamps of present issue, unused at that time, may be redeemed under existing provisions of law. (T. D. 341; May 7, 1901.)

Use of internal-revenue stamps:

Internal-revenue stamps issued for payment of tax on packages of smoking tobacco of the denominations now authorized by law may be used, if necessary, either alone, or in conjunction with the 1-ounce or the one-half-pound stamp now issued for stamping packages of plug or twist tobacco. If one stamp will not suffice for the payment of the full amount of tax due on a single package, the manufacturer may affix another stamp to such package where the two stamps so used will cover the actual amount of tax due on the package. (T. D. 376; July 6, 1901.)

Manufacturers' privileges as to purchase and sales:

Manufacturers are privileged to sell leaf tobacco to qualified manufacturers of cigars for use in their own factories exclusively. Manufacturers are not priviledged to purchase leaf tobacco in large quantities, exceeding the demands of their factories, for the purpose of selling it to other manufacturers, indirectly engaging in the business of a dealer in leaf tobacco on their factory premises. (T. D. 373; June 27, 1901.)

Manufacturers of tobacco not privileged to store leaf tobacco outside of bonded premises, unless increased business and contemplated changes in factory premises make temporary outside storage necessary. (T. D. 374; June 28, 1901.)

Manufactures of tobacco—Special tax—Continued.

Tobacco put up in wood, pasteboard, paper packages:

Regulations, No. 8, as amended by supplements Nos. 1 and 2, relating to tobacco, are further amended to allow qualified manufacturers of tobacco to prepare and put up their plug, cavendish, and twist tobacco in packages made of wood, pasteboard, paper, metal, or other material, used separately or in combination, and containing less than 1 pound of tobacco. (T. D. 376; July 6, 1901.)

Imitation packages forbidden:

A manufacturer should not use imitation tobacco packages when they are the counterpart of packages used by him for packing his tobacco, and all such unstamped imitation packages will be subject to the most rigid inspection when found intermingled with statutory packages. All such packages, put up in imitation of statutory packages of tobacco, snuff, cigars, or cigarettes, are subject to forfeiture. (T. D. 312; March 26, 1901.)

Manufacturers' registry.

Persons required to register must do so on the 1st day of July next, and thereafter on the 1st day of July each year or on commencing business. Collectors will furnish timely notice of change in the law affecting manufacturers of tobacco, snuff, and cigars, and dealers in leaf tobacco, placing in the hands of each a blank, Form 277, early enough to enable such persons to render their return for register within the time required by law. (T. D. 505; April 17, 1902.)

Marking packages.

In view of section 2, act of July 1, 1902, and the provisions of section 69, act of August 28, 1894, manufacturers of tobacco are required to print or mark on each statutory package of cavendish, plug, leaf, twist, and fine-cut chewing tobacco, put up in bulk for consumption, the gross weight, the tare, and the net weight. The gross weight must include the full weight of the package and its contents; the tare shall include the weight of the box, barrel, pail, caddy, or other statutory package, with its lining, covering, lables, and tinfoil wrappings. The tare subtracted from the gross weight will determine the net weight of the package upon which the tax must be paid. (T. D. 556; July 18, 1902.)

Marine insurance tax.

Policies issued by foreign companies taxable:

Marine insurance polices issued by foreign companies having no established agencies in the United States are nevertheless subject to the stamp tax, when obtained by or through insurance brokers residing in this country. (T. D. 20259; October 25, 1898.)

Marine policies under Schedule A.

Collectors are authorized under Schedule A, war-revenue law, to accept the fixing to the books of the underwriters, of the stamps representing the tax on premiums charged on certain marine insurance policies. (T. D. 19645; June 30, 1898.)

Mechanical appliances.

It is held that the article called the "Fulton complexion brush" and electric belts are mechanical appliances that are not included in those parts of Schedule B, war-revenue act, taxing perfumery, cosmetics, medicinal preparations, and similar articles. (T. D. 19702; 19733; July 15 and 19, 1898.)

Medical preparations—Stamp tax. (See also Petroleum, Proprietary articles, and Decision 20498.)

Bicarbonate of soda being an uncompounded medicinal chemical is exempt from stamp taxation under section 20, act of June 13, 1898. (T. D. 20839; March 10, 1899.)

Hydrogen peroxide is held to come within the exemption provided under and by section 20, act of June 13, 1898, for "any uncompounded medicinal drug or chemical." (T. D. 20912; March 20, 1899.)

Lanoline and adeps lanæ, cum aqua, held not to come within the exemption from stamp tax provided under section 20, act of June 13, 1898, for "any uncompounded medicinal drug or chemical." (T. D. 20913; March 22, 1899.)

Phenacetin and similar uncompounded medicinal drugs or chemicals held not to be compounded as contemplated by section 20, act of June 13, 1898, when, by the addition of starch, lactose, etc., they are placed in pill form for administration. (T. D. 21278; June 15, 1899.)

Medicinal proprietary preparations:

A fermented malt liquor, though diluted to such an extent as to be called non-intoxicating, is a beverage for the sale of which special tax must be paid under the internal-revenue laws; and when it is sold under a label reading "Kraft's Temperantia Invigorating Tonic," stamp tax must also be paid thereon as a medicinal proprietary preparation under Schedule B, act of June 13, 1898, even when it contains no drugs or medicinal ingredients. (T. D. 21473; August 8, 1899.)

An abridged cautionary notice may be affixed to samples of medicines intended for gratuitous distribution in certain cases. (T. D. 21611; September 18, 1899.)

Stamping medical preparations:

In computing taxes on medicines furnished by physicians who advertise their ability to cure diseases, the following methods are pursued, viz: 1. Where a specific charge is made for services and a specific charge made also for medicines, the medicines must be stamped according to the amount charged for them. 2. Where services are not charged but medicines are, they must be stamped according to price fixed by the physician. 3. Where physicians profess to furnish medicines free to patients but charge for advice, the tax is estimated by the whole charge made. (T. D. 21612; September 19, 1899.)

Articles taxed as medicinal if used as such:

The only rule by which, for purposes of stamp tax, it can be determined whether an article is medicinal is whether it is used for the cure or palliation of pain or of disease. It can not be determined by its constituent elements nor by the commonly received opinion of its merits or qualities. (T. D. 21734; November 4, 1899.)

Any beverage, whether intoxicating or otherwise, may be rendered taxable as a medicinal preparation by designating it as a tonic if sold under a trade-mark or other claim of proprietorship. (T. D. 21755; November 10, 1899.)

Angostura Bitters:

The special taxes of a rectifier and liquor dealer are not required to be paid for the manufacture and sale of Angostura Bitters that are a mere alcoholic extract suitable only for use medicinally or in giving an agreeable flavor to beverages. (T. D. 21802; November 23, 1899.)

Aerated distilled water:

Aerated distilled water is exempt from stamp tax under section 20, war-revenue law, even though advertised as a remedy or as a cosmetic. (T. D. 21833; December 7, 1899.)

Medical preparations—Stamp tax—Continued.

Aerated distilled water—Continued.

Granose flakes, a food product, is taxable because it is recommended as a cure for sick headache, catarrh of the stomach, indigestion, etc. (T. D. 20393; December 5, 1898.)

Unclarified petrolatum which requires further chemical manipulation to place it in a salable condition may be shipped in bulk without stamps; the finished product must, however, be stamped, in whatever quantity sold. (T. D. 20413; December 7, 1898.)

Subjects of taxation, Schedule B:

The subjects of taxation included in Schedule B, war-revenue act, according to Attorney-General's opinion, December 22, 1898, comprise: (1) Medicinal articles compounded by any formula, published or unpublished, which are put up in style or manner similar to that of patent, trade-mark, or proprietary medicines in general; (2) medicinal articles compounded by any formula, published or unpublished, which are advertised on the package or otherwise as remedies or specifics for any ailment, or as having any special claim to merit, or to any peculiar advantage in mode of preparation, quality, use, or effect. (T. D. 20460; December 22, 1898.)

Duffy's Pure Malt Whiskey is, by being advertised as a cure for consumption, dyspepsia, malaria, etc., rendered liable to a stamp tax as a medicinal article under the provisions of Schedule B, act of June 13, 1898. (T. D. 19646; July 5, 1898.)

Food preparations generally, unless so advertised as to bring them within the category of medicinal preparations, are not taxable under the internal-revenue laws. (T. D. 19687; July 13, 1898.)

Bitters will be presumed to be medicinal preparations and taxable, unless their nonmedical character is clearly shown. (T. D. 19703; July 15, 1898.)

Medicinal preparations not ordinarily sold at retail must be taxed according to the price charged dispensing druggists. (T. D. 20202; October 18, 1898.)

Blackberry juice, preserved from spoiling by the addition of the necessary quantity of spirits, is a medicinal article, and persons who sell it only under a label specifying the diseases for which it is held out as a remedy, never knowingly selling it to those who buy it for use as a beverage, are not required to pay special tax as liquor dealers on account of its sale. (T. D. 20348; November 19, 1898.)

Medicinal preparations. (See also Proprietary articles.)

Every compound which is held out as a remedy for disease (even though the formula by which it is made is not a secret, and the manufacturers claim no proprietary right therein) is subject to stamp tax under Schedule B of the act of June 13, 1898. (T. D. 19522; June 17, 1898.)

Certain proprietary articles taxable:

Certain proprietary articles, such as "concentrated extract of witch-hazel," "compound licorice powder," and "seidlitz powders," are taxable under Schedule B, act of June 13, 1898, because they are, first, all proprietary medicinal articles; second, they are put up similarly to proprietary articles in general; third, because the diseases for which they are remedies are put on the labels; and, fourth, because they make special claim to excellence. (T. D. 19617; July 2, 1898.)

Malt extract is liable to stamp tax under Schedule B, act of June 13, 1898, the same as other medicines. The fact that the substance of the article has already paid tax as beer does not operate to exempt it from tax in its new and medicinal form. (T. D. 19599; June 27, 1898.)

Medical preparations—Continued.

Soaps that are curative:

Soaps are taken out of the category of toilet or laundry articles by a special claim being made for their curative or healing properties, or for their effects on the skin or complexion, and in such cases the packages containing the same must be stamped as medicinal or cosmetic articles. (T. D. 19564; June 23, 1898.)

Memoranda—Stock certificates.

A memorandum of stock being the evidence of the holder's title to shares in the property and franchises of a corporation, the circuit court of the United States, southern district of New York (January 6, 1902) decides that "every person who holds such a certificate in such artificial body, and shall transfer by sale to another the right to participate in such corporation and to become a member thereof, with the accompanying rights and benefits, shall pay a tax on the contract or transaction whereby the transmission is effected." (T. D. 468; February 4, 1902.)

A memorandum of the delivery of stock made on a continuous agreement between the pledger and the pledgee, regulating the deposit and disposition of stock pledged as security, or such a memorandum made on a promissory note given by a borrower, would be liable to tax under the provisions of paragraph 1, Schedule A, act of March 2, 1901, being an evidence of stock delivered as security for the future payment of money. (T. D. 473; February 8, 1902.)

Memoranda: Orders or sales—Special tax.

Exemptions of memoranda under war-revenue law:

As to the exemption of memoranda of sales of farmers' products on an exchange or board of trade by the amendment to paragraph 2 of Schedule A, of the war-revenue law, it is held that the clause of exemption from tax, by its terms, extends only to the "case of products and merchandise actually delivered to, and while in, vessel, boat, or car, and actually in course of transportation." (T. D. 393; August 2, 1901.)

Orders solicited and received:

A person soliciting and receiving orders for transmission described in the third paragraph of section 8, act of March 2, 1901, on his own account and for commissions, who transmits these orders to a correspondent living in another city, is required to pay special tax provided for in that paragraph of the statute, and to keep a book therein prescribed, and to issue and stamp a memorandum for each of these orders received by him. (T. D. 331; April 22, 1901.)

Orders for transactions under act of 1901:

Persons engaged in taking orders for transactions described in paragraph 3, section 8, act of March 2, 1901, are imperatively required by the statute to issue a memorandum for every such order, and to affix and cancel the requisite stamp thereon. They are not relieved from this requirement by the fact that they transmit these orders to their correspondents elsewhere. (T. D. 329; April 20, 1901.)

Stamping memoranda under act of 1901:

A person engaged in the business described in the third paragraph of section 8 of the act of March 2, 1901, must (under pain of fine or imprisonment for failure to do so), at the time of taking an order from a customer, issue a memorandum thereof, and affix thereto a stamp representng the tax of 2 cents on every $100 (or fraction) of the value; and when he transmits this order to another person in the same business the latter must issue a memorandum thereof also and affix thereto the requisite stamp. (T. D. 345; May 17, 1901.)

Mixed flour—Investigations.

Advertising matter:

If a manufacturer, packer, or repacker desires to place his card or advertising matter of any kind inside the package he must first submit an exact copy of same for the approval of the Commissioner of Internal Revenue. The said card or other advertising matter must in no case be larger than the Government card required by section 37, nor materially increase the weight or bulk of the package, and it must not be of such character as to deceive the consumer as to the contents of the package. (T. D. 20204; October 18, 1898.)

Chief constituents:

Every person, firm, or corporation engaged in *grinding together* wheat, as the principal constituent, with any other grain or other material, or *mixing* wheat flour, as the principal constituent, with the flour made from any other grain or other material, shall be deemed a maker or manufacturer of mixed flour. (T. D. 20203; October 18, 1898.)

Exportation of mixed flour:

The Commissioner, with the approval of the Secretary of the Treasury, issues supplemental regulations governing the exportation of mixed flour. (T. D. 20322; November 12, 1898.)

Tax-paid mixed flour:

Tax-paid mixed flour returned to factory by purchasers may be destroyed by the manufacturer without any record being made upon the Government record book (Form 442) of its return or final disposition. The presence of an officer to witness such destruction is unnecessary. If, however, the packages returned are sold again, a record of the fact must be noted on the Government book. (See Circular No. 154, Int. Rev., No. 585.) (T. D. 246; November 16, 1900.)

Investigations as to mixed flour:

Collectors are instructed to begin at once investigations relative to mixed flour, as defined by the act of March 2, 1901, and have the same carried on as vigorously as practicable, in order that a report of the result may be submitted by the collector of each district on the first of the succeeding March; and, in submitting their reports, collectors are directed to state especially whether, in their opinion, the law relating to mixed flour is, to any extent, being evaded. (T. D. 471; February 6, 1902.)

Intent of act of March 2, 1901:

The act of March 2, 1901, had for its object to more fully define the words "mixed flour," and to give statutory authority for exempting from tax those mixtures in which flour was not the chief component part except where the mixture was intended for sale, or sold, or offered for sale, as mixed flour. To be subject to tax as mixed flour, the blended product must either contain over 50 per cent of wheat flour, or, if it contains a less per cent of wheat flour, it must be intended for sale, or be sold or offered for sale, as wheat flour and not as mixed flour. (T. D. 375; June 28, 1901.)

Mixed flour definition modified:

The modified definition of "mixed flour" holds that, when the product resulting from the grinding or mixing together of wheat or wheat flour with any other grain, or the product of any other grain of which wheat or wheat flour is *not* the principal constituent, is intended for sale, or is sold, or offered for sale, as *wheat flour*, such product shall be regarded as mixed flour, and the person, firm, or corporation engaged in such grinding or mixing together shall be deemed a maker or manufacturer of "mixed flour." (T. D. 322; April 9 1901.)

Moneys—Stamp tax.

Money drawn from bank on receipt taxable:

Where money is placed in the hands of an attorney to be loaned, and the attorney, for convenience in keeping the account, deposits it in a bank in the name of the principal, but with the understanding that he is to use it as his own, the attorney can not use a receipt for the purpose of withdrawing money so deposited in the name of his principal without putting a 2-cent stamp thereon. (T. D. 271; January 31, 1901.)

Moneys collected as rents by an executor, accruing after the death of the testator, are not subject to legacy tax, but rents which accrued before the death, but which were not paid, are considered as personal property of the testator's estate. (T. D. 342; May 8, 1901.)

Special-tax stamp on receipts of money:

Where money is received in payment of special taxes receipts should not be given, but the proper special-tax stamp, evidencing the payment of the special tax, must be issued to the taxpayer. (T. D. 297; March 11, 1901.)

This office has always ruled that the privilege of withdrawing a bank deposit by receipt is strictly confined to the person in whose name the money is doposited, and such receipts must be presented by him to the bank personally. (T. D. 271; January 31, 1901.)

Mortgages—Stamp tax.

Act of 1899 not retroactive:

The act of February 28, 1899, is not retroactive, and stamps affixed to bonds and mortgages and canceled prior to the approval of the act can not be refunded. (T. D. 20981; April 5, 1899.)

Conveyance of realty subject to mortgage, taxable:

A conveyance of realty sold subject to a mortgage should be stamped according to the consideration or the value of the property unencumbered. The consideration in such case is to be found by adding the amount paid for the equity of redemption to the mortgage debt; and the fact that one part of the consideration is paid to the mortgagor and the other to the mortgagee does not change the liability of the conveyance. (T. D. 21314; June 22, 1899.)

Stamps may be affixed to either mortgage or bond:

The Commissioner holds, with the Attorney-General's opinion, dated July 17, 1899, that a mortgage or deed of trust given to secure bonds which are to be issued from time to time by any company, corporation, or association is valid so far as stamp taxes are concerned, although no stamp is affixed thereto, if the bonds secured thereby are stamped as issued at the rate of 5 cents for each $100, or fraction thereof. The stamps may be affixed to either the mortgage or the bonds. (T. D. 21400; July 18, 1899.)

Where a mortgage or deed of trust secures more than one bond or note the total tax accruing on all the bonds or notes should be compared with the tax accruing on the mortgage or deed of trust, and the stamp representing the highest tax may be affixed to either the bonds or notes, as the parties may elect. (T. D. 21471; August 7, 1899.)

Mortgage as part of purchase price:

A deed or mortgage executed and delivered prior to July 1, 1898, is subject to stamp tax when offered for registration after that date in States where, by State law, registration is necessary to pass title or establish valid lien. (T. D. 20838; March 10, 1899.)

When the instrument is simply a copy no taxation accrues. If it is in duplicate, triplicate, etc., each having the same legal effect as the original, it is subject to taxation as an original mortgage. (T. D. 20797; March 7, 1899.)

Mortgages—Stamp tax—Continued.

Mortgage as part of purchase price—Continued.

Where the grantee is the original mortgagor, the taxable consideration will always include the amount of the mortgage, as well as the part of the purchase price paid in cash, and the deed must be stamped accordingly. The mortgage given as part of the purchase price is taxable in itself, the same as any other mortgage, subject to the amendment of February 28, 1899. (T. D. 21621; September 22, 1899.)

Yearly renewals of chattel mortgages by affidavit, under the law of Michigan, do not require stamps. (T. D. 20724; February 20, 1899.)

Bond not promissory note:

Under the act of Congress approved February 28, 1899, amending Schedule A, act of June 13, 1898, a bond secured by mortgage, when given by a private person, is to be considered as a bond, and not as a promissory note, and so taxed. (T. D. 20917; March 25, 1899.)

Modification of decision 19932 as to mortgages:

Treasury decision 19932 is modified, making the ruling of this office as follows, viz: When real property is conveyed subject to a mortgage, if the deed conveying the same contains any covenant or statement that the grantee assumes the mortgage and becomes liable thereby for a deficiency judgment in case of foreclosure, then the amount of the mortgage is to be added to the value of the equity of redemption in determining the consideration on which the stamp tax is to be based. However, if there is no covenant or statement in the deed whereby any liability of the grantee for the payment of the mortgage can be implied, then the consideration is to be based only on the value of the equity of redemption. (T. D. 21519; August 17, 1899.)

The conveyance used under the statutes of the State of Georgia in cases where the payment of a debt is secured by pledging of real estate is taxable under the paragraph in Schedule A relating to mortgage or pledge. The "bond to reconvey" is subject to a tax of 50 cents. (T. D. 21667; October 14, 1899.)

Exemption of deeds, leases, and powers of attorney:

Deeds, leases, and powers of attorney executed and delivered previous to July 1, 1898, exempt from taxation. On deeds in trust and in deeds where the consideration is "love and affection," tax based on actual value of property conveyed. In correction deeds, the tax is same as that imposed on deed corrected. Release deed and deeds terminating trusts taxable the same as the instrument which they release or terminate. Assignment of mortgage taxable on the basis of the amount assigned. Assignment of unexpired term of lease taxable on the basis of the term assigned. Deeds conveying realty subject to incumbrance, taxable according to actual value of realty conveyed, regardless of any incumbrances that may exist. Clerk's certificate to notarial acknowledgment, taxable 10 cents. Recorder or register must determine what papers he will receive or reject. (T. D. 19932; August 20, 1898.)

Where mortgage states full amount secured and provides for present and future issues of bonds, it should be stamped according to the full amount secured. (T. D. 20226; October 13, 1898.)

Releases of mortgages and of deeds of trust operating as mortgages are not subject to taxation, no matter in what form they are executed. (T. D. 20440; December 15, 1898.)

Express assignments not transfers, taxable:

The Commissioner rules that with reference to transfers of mortgages Congress intended only to tax the express assignments and transfers of mortgages, and not those that were merely implied or by operation of law, and that the transfer

Mortgages—Stamp tax—Continued.

Express assignments not transfers, taxable—Continued.

or assignment of a mortgage to be liable to stamp tax under the terms of Schedule A, act of June 13, 1898, must be made in writing and signed by the assignor. (T. D. 21780; November 17, 1899.)

Promissory notes and mortgages:

A promissory note and mortgage securing it require alike a stamp tax. A memorandum on back of a deed or mortgage noting date of filing and of record does not require a stamp. A release, executed, sealed, and delivered, or a mortgage, is equivalent to a conveyance, and taxable according to the value of interests released or conveyed. A power of attorney, authorizing the entry of satisfaction of mortgage, is taxable. A separate instrument deposited as security to a trustee for redemption of obligations is a taxable memorandum under paragraph relating to mortgage or pledge, page 16 of war-revenue act. Papers placed in the hands of others than primary holders, containing formal assignments, require stamp tax. A pledge given as security on a mortgage, and a power of attorney authorizing an assignment, require a stamp, but not a transfer until actually made. (T. D. 19701; July 15, 1898.)

Requirements relating to the various instruments and documents used in the transactions of the Chicago Real Estate Board. (T. D. 19742; July 20, 1898.)

Assignment tax:

Assignments of trust deeds require the same rate of stamp duty as the original instrument. No stamp is required upon the assignment of a promissory note. (T. D. 19680; July 12, 1898.)

A taxable mortgage must exceed in value $1,000 when it becomes taxable at the same rate as a promissory note. (T. D. 19697; July 14, 1898.)

Chattel-mortgage tax:

Chattel mortgages and a mortgage on realty bear the same rate of taxation, and every assignment or transfer of a mortgage, or the renewal or continuance of any agreement or contract, by letter or otherwise, requires the same stamp as the original instrument. (T. D. 19679; July 12, 1898.)

Mortgages, collaterals, pledges.

Attorney-General's opinion:

Attorney-General's opinion, dated March 20, 1900, relative to the pledging of collateral securities and the instruments used therein, addressed to the Secretary of the Treasury. (T. D. 80; March 21, 1900.)

Internal-revenue circular No. 560, setting forth rulings with regard to internal-revenue taxation on loans secured by pledges of collateral under Schedule A, act of June 13, 1898, in conformity with opinion of Attorney-General. (T. D. 83; March 29, 1900.)

The tax on an assignment of a mortgage is reckoned upon the amount secured by the assignment at the time it is executed. (T. D. 84; March 30, 1900.)

Tax accrues on assignments of mortgage:

A tax accrues on every assignment of a mortgage based upon the amount of money remaining secured thereby; on a lease based upon the unexpired term; on a policy of life insurance based upon the amount of insurance remaining in force under the assignment; on a fire, marine, and casualty insurance policy based upon the unearned premium. (T. D. 243; November 13, 1900.)

Mortgage—Legacy taxation.

Mortgage indebtedness on real estate is held to be not a proper charge against the personal estate as regards the liability of the estate to legacy tax. (T. D. 449; December 16, 1901.)

Mortgage—Legacy taxation—Continued.

Date and delivery of mortgage:

As to whether a mortgage dated in June, but not recorded until after July 1, 1901, is subject to stamp tax, it is held that the date of recording a mortgage does not decide the question of its taxability. A mortgage as between the parties takes effect from the date of its delivery to the mortgagee, or his agent, at which time it is *issued*, and the stamp tax accrues under the law. The date of a mortgage will be assumed to be the date of delivery, unless the contrary is proved. (T. D. 362; June 19, 1901.)

N.

Notice of seizure.

In order to obviate all grounds of complaint under section 3460, Revised Statutes, relating to published notice of the seizure of spirits, owing to failure of claimants to give the requisite bond, collectors are directed to furnish a copy of the first advertisement to the shipper, if he is known, or to his attorney, who may have been in correspondence with the collector in regard to the seizure. (T. D. 585; September 30, 1902.)

O.

Occupations subject to tax.

The schedule of articles and occupations subject to tax under the war-revenue law and in force on and after July 1, 1902, is announced by the Commissioner of Internal Revenue. (T. D. 537; June 19, 1902.)

Official records.

Disclosures by collectors:

Where requests are made for disclosures of information contained in official records of internal-revenue taxes and taxpayers, collectors are instructed that they should under no circumstances whatever comply with such request until they shall have communicated with the Commissioner of Internal Revenue and receive instructions concerning the same, except where the request is from the Secretary of the Treasury, in which case the request will be complied with at once without communicating with the Commissioner of Internal Revenue. (See Int. Rev. circular, No. 583.) (T. D. 226; October 10, 1900.)

Official information confidential:

Data from the returns made by a distiller are not required to be furnished for use of private litigants in a State court. (T. D. 224; October 8, 1900.)

It is held that information secured through officers and employees of the Internal Revenue Service must be regarded as in the strictest confidence, and that any person imparting such information to unauthorized persons is guilty of a gross breach of official confidence justifying immediate dismissal from office. (See Int. Rev. circular, No. 574.) (T. D. 141; June 2, 1900.)

Privacy of official records:

Regulations made by the Commissioner of Internal Revenue, prohibiting collectors from giving out records or copies thereof to private persons or to local officers, or to produce such records, or copies thereof, in a State court, are sustained by the opinion of the United States Supreme Court in the case of John T. Boske, sheriff of Kenton County, Kentucky, appellant, *v.* David N. Comingore, collector for the sixth collection district in Kentucky. (T. D. 104; April 20, 1900.)

Official records—Continued.

Testimony as to contents prohibited to collectors and deputies:

Referring to section 251, Revised Statutes, under date of April 15, 1898, the District Court of the United States in re Lamberton *v.* Habeas Corpus, at Fort Smith, Ark., quotes regulations made by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury, showing that "all records in the offices of collectors of internal revenue or of any of their deputies are in their custody and control for purposes relating to the collection of the revenues of the United States only. They have no control of them and no discretion with regard to permitting the use of them for any other purpose. Collectors are hereby prohibited from giving out any special-tax records or any copies thereof to private persons or to local officers, or to produce such records or copies thereof in a State court, whether in answer to subpœnaes *duces tecum* or otherwise." (T. D. 689; August 8, 1903.)

Oil refineries.

Oil refiner defined:

As to what constitutes a refiner of oil within the meaning of section 27, war-revenue act, imposing a tax upon "every person, firm, corporation, or company carrying on or doing the business of refining oil." (T. D. 20002; September 3, 1898.)

Returns of gross receipts of oil refineries, under section 27, act of June 13, 1898, to be made for period ending June 30, and for each monthly period thereafter. Tax on such gross receipts accruing each month assessable under section 31 of that act. (T. D. 2003; September 7, 1898.)

Oleomargarine—Special tax.

Abstracts of sales:

Collectors are directed, upon the receipt of an abstract of sales of oleomargarine, to promptly cause sufficient investigation to be made for the purpose of determining the liability of the persons named therein to the special tax, and of marking each sale accordingly. The separate sheets of each abstract must be fastened together, and, after correction, returned to the Commissioner. (T. D. 562; August 2, 1902.)

Accounts to be separately kept:

Manufacturers who produce and dispose of, and wholesale dealers disposing of, two or more classes of oleomargarine shall be required to keep their accounts for one class of product separate and distinct from accounts kept for another class, such as oleomargarine tax paid at 2 cents per pound removed from factory prior to July 1, 1902, oleomargarine tax paid at one-fourth of 1 cent per pound, and oleomargarine taxable at 10 cents per pound. (T. D. 558; July 23, 1902.)

Oleomargarine artifically colored by annotto or other coloring matter is subject to tax at 10 cents per pound. (T. D. 535; June 14, 1902.)

Act of May 9, 1902:

The act of May 9, 1902, provides for a tax of 10 cents per pound upon oleomargarine which shall be manufactured and sold, or removed for consumption or use, containing artificial coloration that causes it to look like butter of any shade of yellow, and a tax of one-fourth of 1 cent per pound when free from such artificial coloration, on and after July 1, 1902, the date when the act is to take effect. (T. D. 520; May 13, 1902.)

A special-tax stamp as W. D. O. free from artificial coloring under which sales have been made can not be redeemed unless a special-tax stamp at the rate of $480 per year is procured for the period from the beginning of the month in which the first sale of uncolored oleomargarine was made to the close of the fiscal year. (T. D. 612; December 29, 1902.)

Oleomargarine—Special tax—Continued.

Army-post exchanges:

The decision of the Court of Claims in the case of Thomas B. Dugan *v.* United States (No. 21285 in Treasury Decisions, 1899), sustaining the ruling of this office that post exchanges under the complete control of the Secretary of War as governmental agencies are not subject to special tax as retail liquor dealers, applies equally to these post exchanges with reference to their transactions in oleomargarine. (T. D. 632; March 4, 1903.)

Artificial coloration:

If a wholesale dealer handles oleomargarine free from artificial coloration that causes it to look like butter of any shade of yellow, then he is protected by his special-tax stamp taken out at the rate of $200 per annum. If, however, the oleomargarine he sells, although it may have been taxpaid by the manufacturer at the rate of one-fourth of 1 cent per pound, is not free from artificial coloration that causes it to look like butter of any shade of yellow he will be required to pay at the rate of $480 per year. (T. D. 608; December 20, 1902.)

Artificially colored oleomargarine:

If a manufacturer taxpays artificially colored oleomargarine that looks like butter of any shade of yellow at the rate of one-fourth of 1 cent per pound, this is no protection to the wholesale dealer who holds a $200 special-tax stamp, for such manufacturer not only becomes liable to the Government for the higher rate of tax, but the wholesale dealer also for the special tax at the higher rate, although he may have been absolutely ignorant of the deception practiced upon him by the manufacturer. (T. D. 608; December 20, 1902.)

Change of stamp from retail to wholesale dealer:

If, on July 1, 1902, a wholesale or a retail dealer in oleomargarine should take out a special-tax stamp for the sale of only the "uncolored product," and later should find that it would be to his advantage to sell colored oleomargarine, he could do so by the payment of the additional amount necessary. (T. D. 526; May 26, 1902.)

Cold-storage warehouses:

Where warehouses for cold storage of oleomargarine are merely places of storage, and not places where customers leave their orders, special tax is not required to be paid therefor, nor special-stamp tax required to be posted up therein. (T. D. 709; October 6, 1903.)

Compliance with rule 22:

The Commissioner, addressing a dealer in oleomargarine, advises that all the dealers need to do is to call upon the supply factories for the product to be packed in a form to suit their trade and their customers. You will have no difficulty whatever in obtaining renovated butter in a great variety of shape and size of package, so as to be able to fully satisfy the demands of your customers. The simplest, safest, and most economical course for you to pursue, therefore, is to order renovated butter from the factory supplying you in such shape as will meet the wants of your trade, and enable you to sell it and ship it in exactly the condition in which it is received. In this way rule 22 and all other existing regulations may be fully complied with as well as the interests and convenience of all concerned. (T. D. 654; April 15, 1903.)

Designation of consignees:

In case of designation by a manufacturer or wholesale dealer of the consignees, reported on Form 216 or 217, the collector should indicate by a check or other mark that he has verified such markings of the consignees in his district before transmitting the report to the Commissioner of Internal Revenue. (T. D. 613; January 12, 1903.)

Oleomargarine—Special tax—Continued.

Enforcement of regulations as to marking:

Prosecutions or other action for the enforcement of the regulations prescribed by the Secretary of Agriculture relating to the proper stamping and marking of renovated butter are under the authority of that officer, and internal-revenue officers are not responsible therefor, inasmuch as the Bureau of Internal Revenue lacks lawful power with respect to violations of said regulations. (T. D. 641; March 17, 1903.)

Exportations free:

The obligations of a retail dealer in oleomargarine are stated in opinion delivered by the United States district court for the eastern district of Pennsylvania. The primary object of the oleomargarine law is to raise revenue, and the law is constitutional. Decision in the case of the United States *v.* Daniel E. Dougherty. (T. D. 127; May 14, 1900.)

Upon oleomargarine of the manufacture of the United States once exported free of tax, and afterwards returned from the foreign port to the United States, there shall be paid a duty equal to the internal-revenue tax imposed upon oleomargarine of the class to which such returned goods properly belong. (T. D. 669; June 16, 1903.)

Exportation of adulterated butter:

The requirements of the fourth section of the act of May 9, 1902, are so explicit in regard to the manufacture and exportation of "adulterated butter" that the Commissioner of Internal Revenue is unable to see his way clear for the formulation of regulations governing the exportation of adulterated butter which shall not require the branding of the words "adulterated butter" on packages for export, or the affixing of the label above quoted, in which the words again appear. (T. D. 532; June 6, 1902.)

Inner packages:

A tin container having the word "Oleomargarine" printed on the top of the can in a circle in letters one-half inch square, used in conjunction with the name on the inside of the inner package, would meet the requirement of the regulations for packing oleomargarine for the purposes of exportation. Under the regulations the marking must be in durable ink, or lithographed, or impressed in the tin in such a manner as to prevent its obliteration, and containing not less than 10 pounds. (T. D. 604; December 15, 1902.)

Instructions as to devices:

By reference to Paragraph III, page 26, regulations No. 9, revised June, 1902, there will be noted the following: "Manufacturers will be permitted to impress upon their rolls, prints, or bricks marks or embellishments in the way of a finish for the same, without the word "oleomargarine" appearing thereon, provided said marks or embellishments are first presented in duplicate photographic copies, serially numbered, to this office for approval." (T. D. 628; February 14, 1903.)

Instructions to manufacturers:

Instructions to manufacturers of oleomargarine are applicable only in reporting oleomargarine tax paid prior to July 1, 1902, at the rate of 2 cents a pound, and how to indicate whether the product is artificially colored. (T. D. ——.)

Intent of act of May 9, 1902:

It is not the intent of the act of May 9, 1902, to require the payment of higher rates of special taxes when no other oleomargarine was sold except that described in the act as "free from artificial coloration that causes it to look like butter of any shade of yellow." (T. D. 586; October 1, 1902.)

Oleomargarine monthly reports, correcting Forms 499 and 515, should be so pre-

Oleomargarine—Special tax—Continued.

Intent of act of May 9, 1902—Continued.

pared that, in all instances, only the actual and not the estimated weights be given. Any fractional part of a pound in a package shall be taxed as a pound. (T. D. 606; December 15, 1902.)

Investigation as to liability to special tax:

Collectors, upon receiving an abstract of sales of oleomargarine, are required to cause a sufficient investigation to be made, to determine the liability of the persons named therein to special tax, and to mark each sale accordingly—the investigation to be as promptly made as possible. (T. D. 562; August 2, 1902.)

Manufacturers' returns:

The time in which returns of manufacturers of and wholesale dealers in oleomargarine shall be made to collectors is extended from five days to ten days after the first day of the month, covering the transactions of the preceding month. (T. D. 281; February 15, 1901.)

Marking, stamping, and branding packages:

Under the sixth section of the act of August 2, 1886, the marking, stamping, and branding of packages of oleomargarine must be regarded as "means to effect the objects of the act in respect of revenue," the United States circuit court of appeals for the third district holding that where an "indictment charges that the defendant named therein, unlawfully packed, unlawfully sold, and unlawfully delivered oleomargarine, if any of the counts in such a case be sufficient to support the judgment of the lower court, the same must be affirmed, whether the defendant be a wholesale or a retail dealer." (T. D. 335; April 27, 1901.)

Marking wrappers—Modification:

Seizures of oleomargarine under authority of letter, dated January 22, 1903, for omissions by manufacturers of the word "Oleomargarine" from wrappers, covering the same, were ordered released to save losses to uninformed manufacturers, and it is ordered that no seizures for noncompliance be made before March 1, 1903, unless the tax-paid stamps were issued subsequent to February 10, 1903. (T. D. 626; February 10, 1903.)

Oleomargarine, colored and uncolored:

Where a person after July 1, 1902, pays special tax as a dealer in uncolored oleomargarine and thereafter desires to sell also colored oleomargarine, the only course for him to pursue is to pay the special tax at the higher rate for the entire period to the close of the year, and take out the requisite special-stamp tax, and then send in for redemption the special-tax stamp taken out at the lower rate. (T. D. 526; May 21, 1902.)

Oleomargarine peddled on streets taxable:

Oleomargarine can not be peddled on the streets without involving the peddler in special-tax liability, as a dealer, at each place at which he sells the product. (T. D. 610; December 23, 1902.)

Orders for original manufacturer's packages:

Where a person, though not otherwise a dealer in oleomargarine, at the request of another, orders original manufacturer's packages of oleomargarine, and the manufacturer ships the packages to him and charges them to him, and looks to him only for pay therefor, and he receives these packages and delivers them to the person at whose request he sent such orders, collecting of the latter the purchase money, he must be regarded as having bought the oleomargarine on his own account and as having sold it, and, therefore, must be regarded as a wholesale dealer in oleomargarine and required to pay special tax accordingly, even though he show that he acted solely for the accommodation of the person

Oleomargarine—Special tax—Continued.

Orders for original manufacturer's packages—Continued.

to whom the oleomargarine was delivered by him, and that he derived no profit therefrom. (T. D. 2; December 29, 1900.)

Where a retail dealer sells and delivers upon one order two packages of oleomargarine, each containing 10 pounds, of the same grade and at the same price, he sells 20 pounds of oleomargarine in contravention of the law, which distinctly limits him to the sale of "quantities not exceeding ten pounds" (section 6, act of August 2, 1886). (T. D. 105; April 23, 1900.)

Where manufacturers ship stamped packages of oleomargarine on orders of customers and do not take the waybills from the common carrier to these customers nor to their use, but simply to their own agent who receives and delivers the packages to the persons whose names are found thereon, the manufacturers involve themselves in special-tax liability as wholesale dealers at the place where their agent makes these deliveries. (T. D. 106; April 23, 1900.)

Original stamped packages:

A bill of sale of an original stamped package of oleomargarine, containing a description of the package and the name of the purchaser, and executed at the factory by the manufacturers, and sent from there to the purchaser, completes the sale and constructive delivery of the oleomargarine at the factory, and the subsequent actual delivery of the package elsewhere to the purchaser does not necessitate the payment of special tax at the latter place. (T. D. 160; June 18, 1900.)

Where original stamped packages of oleomargarine are set apart at the factory of the manufacturer (or at the place of business of a wholesale dealer under his special-tax stamp) as the property of persons whose orders therefor have been received, they may be consigned to agents of the manufacturer (or wholesale dealer) for delivery and for collection of the purchase money due thereon without special-tax liability on the part of either of these agents or the manufacturer or wholesale dealer, provided that in the bill of lading and in the waybill of the common carrier it is explicitly set forth that these packages of oleomargarine are consigned to the agents for the use of the owners thereof whose names are given therein. (T. D. 152; June 7, 1900.)

Packages in retail quantities:

Retail dealers in oleomargarine may, in advance of sales, make up packages in retail quantities, mark and brand the same, and place them in or on the original stamped packages for retail. Illegible or concealed marks are not those required by law. Retail dealers must comply strictly with regulations to avoid penalties. (T. D. 441; December 4, 1901.)

Preparation of collectors' reports:

Collectors should exercise particular care at all times in preparing their reports on Form 500 for dealers in oleomargarine taxed at one-fourth of 1 cent per pound exclusively; Form 501 for oleomargarine taxed at 10 cents per pound, and Form 502 for adulterated butter as outlined in regulations No. 9. Under no circumstances should dealers in one class of product be reported on forms designed for the reporting of another class of product. (T. D. 551; July 14, 1902.)

Products subject to State tax laws:

The act of May 9, 1902, going into effect July 1, 1902, renders oleomargarine and other imitation dairy products subject to the laws of any State or Territory, or the District of Columbia, into which they are transported, under the law imposing a tax upon and regulating the manufacture, sale, importation and exportation of oleomargarine. (T. D. 533; June 11, 1902.)

Oleomargarine—Special tax—Continued.

Redemption of special-tax stamp:

In case a party procures a special-tax stamp as W. D. O. free from artificial coloring and afterwards, during the same month, purchases a special-tax stamp as W. D. O. at the rate of $480 per annum, the special-tax stamp as W. D. O. free from artificial coloring may be redeemed upon application being made therefor on Form 38, provided that he can show that he did business in but one place; or if he so desired, he could in any subsequent month make application for and procure a special-tax stamp as W. D. O. at the rate of $480 per year from the beginning of the month in which he first sold oleomargarine free from artificial coloring, and then make a claim for the redemption of the special-tax stamp as W. D. O. free from artificial coloring. (T. D. 612; December 29, 1902.)

The act approved May 9, 1902, makes no provision for imposing an additional tax on stock on hand, but provides for two grades of wholesale and retail dealers in oleomargarine. Wholesale and retail dealers pay $480 and $48 per annum, respectively. Payment of these special taxes permits the sale of colored or uncolored oleomargarine, or both. Wholesale dealers in oleomargarine who sell only the uncolored product taxed at the rate of one-fourth of 1 cent per pound will pay special tax at the rate of $200 per annum, and retail dealers who sell only the uncolored product pay at the rate of $6 per annum. (T. D. 520; May 13, 1902.)

Reports under Act of May 9, 1902:

Collectors are advised that, under the act of May 9, 1902, in making their monthly report showing the names of persons who have qualified as dealers in oleomargarine taxable at the one-fourth cent per pound and 10 cents per pound, respectively, they should file two reports, one showing the number of persons who pay special tax to vend the product which pays the lower rate of tax, and the other showing the names of persons who have qualified as dealers in the product taxable at the rate of 10 cents per pound. (T. D. 553; July 16, 1902.)

Retail dealers' packages:

Retail dealers must sell oleomargarine only from original stamped packages in quantities not exceeding 10 pounds. (T. D. 698; September 16, 1903.)

Returns must be signed and sworn to:

Hereafter collectors will refuse to accept returns from manufacturers of or wholesale dealers in oleomargarine which are not signed and sworn to as herein required, beginning with returns for the month of January, 1901. Any regulations or instructions in conflict with the foregoing are hereby rescinded. (T. D. 264; January 11, 1901.)

Sales by wholesale dealers:

Manufacturers and wholesale dealers in oleomargarine can sell only in original packages at the place for which they have paid special tax and hold special-tax stamps. Deliveries by agents permissible only as provided in Treasury decision 152. When ownership is not absolutely relinquished and delivery is made only C. O. D., liability to special tax as wholesale dealer in oleomargarine is incurred at each place where such deliveries are made. (T. D. 485; March 14, 1902.)

The sale of oleomargarine on and after July 1, 1902, that has paid a tax at any rate other than one-fourth of 1 cent per pound, creates liability to special taxes at the higher rate, without reference to the question of coloration of the oleomargarine. (T. D. 568; August 20, 1902.)

Oleomargarine—Special tax—Continued.

Sales for ship stores:

Sales of oleomargarine for "ship stores" to vessels in ports of this country sailing for foreign ports can not be made free of tax as for export, but must be tax paid and stamped as are goods for domestic use. (T. D. 657; April 23, 1903.)

Sales for ships' stores:

Section 16, act of August 12, 1886, as affecting the sales of oleomargarine for ships' stores, is construed to mean that to export oleomargarine free of tax both the constructive and the actual delivery of the goods must be made in a foreign land. Such would not be the case where the sales and deliveries are made to vessels in ports of this country, although sailing for foreign ports, and therefore the product must be taxed as for domestic use. (T. D. 657; April 23, 1903.)

Sales made at place of manufacture or elsewhere:

Under their special-tax stamp as manufacturers of renovated butter, manufacturers are permitted to sell the renovated butter made by them at the place of manufacture, or elsewhere, without the payment of any additional special tax for such sales. (T. D. 530; June 2, 1902.)

Sales to successors:

A merchant and retail dealer in oleomargarine who sells his stock of goods, including oleomargarine, to his successor in business, is not required to pay special tax on this account as a wholesale dealer in oleomargarine. A sheriff who levies upon and sells oleomargarine is not required to pay special tax. (T. D. 730; December 18, 1903.)

Sample of cocoanut oil not taxable:

A fat called "Ko-nut," composed entirely of cocoanut oil or fat, without a mixture of other substances, and without any addition of butter, is not considered oleomargarine and is not subject to tax. (T. D. 277; February 12, 1901.)

A sample of cocoanut oil and other ingredients, containing no butter, and which has not been churned with milk or cream, the analysis of which appears to confirm the statement of the manufacturers that it was a mixture of Ko-nut (a refined cocoanut oil) and beef fat, "the admixture to Ko-nut being to give it the kneadable and plastic character so typical of lard and entirely lacking in cocoanut oil," the sample being put up in imitation of lard and not of butter, held not subject to tax as oleomargarine. (T. D. 344; May 11, 1901.)

Separate stalls require separate stamps:

Where a retail dealer in oleomargarine carries on business at two or more stalls in a market building at the same time, he is required to take out and post up a separate special-tax stamp at each stall; but where he conducts this business at separate stalls, on different days of the week, one special-tax stamp, taken out by him for the market building, is sufficient, when posted up at the stall where he is retailing oleomargarine. (T. D. 346; May 18, 1901.)

Shipping manufacturers' original packages:

Oleomagarine tax paid at 2 cents per pound sold by wholesale dealers before June 30, and returned after July 1, can not be resold without involving wholesale dealer in liability to special tax as dealer in oleomargarine taxed at 10 cents per pound. (T. D. 560; July 29, 1902.)

The payment of special tax as wholesale or retail dealer in oleomargarine covers sales of oleomargarine only. If adulterated butter is sold, payment of special tax as wholesale or retail dealer in adulterated butter is required, as the two businesses are separate and distinct. (T. D. 530; June 2, 1902.)

The shipping of manufacturers' original packages in boxes or barrels or wrapped in jute bags, burlap, or heavy paper is permitted for the purpose only of pro-

Oleomargarine—Special tax—Continued.

Shipping manufacturers' original packages—Continued.

tecting such packages and contents from injury while in transit, provided that the words "Oleomargarine" or "Renovated butter," as the case may be, are plainly marked or stenciled on the outside of such wrapper or covering, said coverings to be removed after packages reach their destination. (T. D. 587; October 6, 1902.)

Three classes of products require separate returns:

If the reports from wholesale dealers in oleomargarine, on Form 217, cover transactions in the three classes of the product, separate returns must be made of each by wholesale dealers, and the distinctive word or words "taxable at 10 cents per pound," "taxable at ¼ cent per pound," or "oleomargarine tax paid at 2 cents per pound," inserted in red ink at the top of the first page, on outside fold and recapitulation. A revised Form 217 was prepared for publication and use by collectors upon requisition. (T. D. 567; August 18, 1902.)

When tax payable at place of delivery:

Palm oil used for the purpose of producing or imparting a yellow color to the oleomargarine subjects the product so colored to a tax of 10 cents per pound. Oleomargarine so colored is not free from artificial coloration. (T. D. 564; August 11, 1902.)

Where a manufacturer or wholesale dealer in oleomargarine receives an order from a purchaser for original stamped packages of oleomargarine in "1,000-pound lots," the packages must be set apart at the factory or at the place of business of the wholesale dealer and shipped in such a manner as to entitle the purchaser to the ownership and receipt of the packages as his own property absolutely and unconditionally. If this is not done, and the agent of the manufacturer or wholesale dealer upon the arrival of the packages at their destination withholds them, or any part of them, from the purchaser until the latter pays for them and only then makes delivery, the sales are to be regarded as completed at the place of such delivery, and special tax is required to be paid therefor at that place. (T. D. 499; April 12, 1902.)

Oleomargarine circular letters.

Devices or designs not sanctioned:

In pursuance of paragraph 3 of "Regulations 9," revised June, 1902, collectors of internal revenue and others interested are informed that this office will not sanction any device or design on bricks, prints, or rolls of oleomargarine in which appear a clover leaf, sheaf of wheat, a bell, or any word or letter for embellishment or finish, unless the word "oleomargarine" is impressed on the same surface with the device, as required by the regulations. (T. D. 628; February 14, 1903.)

Oleomargarine—Consignees:

The Commissioner advises that collectors of districts wherein manufacturers of or wholesale dealers in oleomargarine are located are required to mark in the column headed "Designation," on inside pages of reports on Forms 216 and 217, respectively, against the name of consignees in their district, the letter "D" for dealer and "C" for consumer, as the case may be, before forwarding the reports to the Commissioner of Internal Revenue. (T. D. 613; January 12, 1903.)

Oleomargarine Forms 500 and 502:

Circular to collectors setting forth instructions supplementing Treasury decision 668, regarding the preparation of Forms 500 and 502, showing the names of persons who have paid special tax as dealers in oleomargarine. (T. D. 672; June 26, 1903.)

Oleomargarine circular letters—Continued.

Oleomargarine Forms 500 and 502—Continued.

Collectors are directed that, in future, when preparing reports on Forms 500 and 502, they must cause to be entered the dates at the beginning and ending of the period covered by the payment of the tax, as, for instance, July 1, 1903, to June 30, 1904, or twelve months from July 1, 1903. (T. D. 684; July 22, 1903.)

Instructions are issued to collectors concerning the preparation of Forms 500 and 502, showing payment of special tax as wholesale and retail dealers in oleomargarine taxed at the rate of one-fourth cent and 10 cents per pound, respectively. (See also T. D. 672.) (T. D. 668; June 11, 1903.)

Oleomargarine—Instructions as to imprinting:

Collectors are required to see that manufacturers of oleomargarine in their respective districts are complying with paragraphs 1, 2, 3, and 4 of regulations No. 9, relative to imprinting upon bricks, prints, or rolls of oleomargarine. The regulations were formulated by authority of section 20, act of August 2, 1886, and oleomargarine found on the market with prints or devices which do not conform thereto is liable to seizure and forfeiture. Collectors are expected to enforce the regulations in respect to the matter referred to, and seizure should be made of all packages offered for sale bearing devices not sanctioned by the regulations. (T. D. 622; January 21, 1903.)

Internal-revenue circular No. 629, addressed to collectors and revenue agents, sets forth regulations as to tests for determining the presence of artificial coloring matter in oleomargarine. (T. D. 547; July 9, 1902.)

Oleomargarine shipments:

The Commissioner holds now, as heretofore, that in reporting a shipment of oleomargarine by a manufacturer to a third party, upon the order of a wholesale dealer, the manufacturer should enter on book Form 60 and report Form 216 the name and address of the actual consignee; also a memorandum to the effect that it is sent upon the order of a wholesale dealer, naming the dealer. (T. D. 679; July 14, 1903.)

Oleomargarine sold before July 1, 1902:

Circular letter is sent to collectors containing instructions relative to abstract of sales of oleomargarine, Office Form 263. (T. D. 562; August 2, 1902.)

Collectors are instructed in circular letter that when it is conclusively shown that the oleomargarine tax paid prior to July 1, 1902, was free from artificial coloration, even though it be sold subsequent to that date, the payment of the lesser rates of special taxes will suffice, provided the dealer has sold none of that article which had been artificially colored. Anything inconsistent with this ruling contained in circular letter dated July 16, 1902 (Mim. No. 269), is hereby rescinded. (T. D. 586; October 1, 1902.)

Collectors are instructed by circular that in investigations of the oleomargarine industry it has been found very important to have data furnished that would definitely locate all purchasers, and for that reason manufacturers and wholesale dealers were required by the regulations to give in their reports of sales such information as would meet the needs of the office. (T. D. 605; December 15, 1902.)

Extracts from the act of August 2, 1886, as amended by the act of May 9, 1902, and from regulations No. 9, as to retail dealers in oleomargarine. (See circular No. 414, revised, December 3, 1902.) (T. D. 600; December 3, 1902.)

The Commissioner issues circular letter to collectors advising them of his opinion that, after a careful examination of the law, there is no specific provision that

Oleomargarine circular letters—Continued.

Oleomargarine sold before July 1, 1902—Continued.

permits the peddling of oleomargarine. It can not be done without involving the peddler in a special liability as a dealer in oleomargarine at each place at which he sells his product. (T. D. 610; December 23, 1902.)

Reporting receipts of oleomargarine packages:

Collectors are instructed that wholesale dealers in reporting on their monthly Form 217, *sample packages* of oleomargarine should show, under the heading "Statement of quantity received during the month," such packages in a separate entry, and such entries should appear on the page devoted to receipts in the same manner as any other shipment. Care should be taken in making reports of such receipts, so that the nature of the same may be clearly set forth. (T. D. 649; April 6, 1903.)

Reports of collectors:

Collectors are advised to forward reports needed in the preparation of office records without delay the information contained in the following forms, viz: Form 500, for dealers in oleomargarine taxed at one-fourth cent per pound; Form 501, for dealers in oleomargarine taxed at 10 cents per pound; Form 502, for dealers in adulterated butter. Particular care should be used at all times in preparing these reports. Under no circumstances should dealers in one class of product be reported on forms designed for reporting another class of product. (T. D. 551; July 14, 1902.)

Seizures—Marking wrappers:

The Commissioner instructs collectors that, in order to avoid imposing loss upon manufacturers and dealers in oleomargarine, no seizures for noncompliance with the requirements of circular letter as to the marking of wrappers, dated January 22, 1903, shall be made before March 1, 1903, unless the tax-paid stamps thereon were issued subsequent to February 10, 1903. (T. D. 626; February 10, 1903.)

[See Decisions (Special Tax Decisions) Nos. 105, 106, 152, 160.]

Instructions in revenue circular No. 551, are superseded by circular No. 564, as to marking, branding, and stamping packages of oleomargarine. (T. D. 31; February 1, 1900.)

Instructions are given to collectors, amending circular 551, by the issuance of internal-revenue circular No. 564, as to marking, branding, and stamping packages of oleomargarine. (T. D. 108; April 19, 1900.)

Regulations, No. 9, revised January, 1900 (Supplement No. 1), governing the marking and branding of packages of oleomargarine for export, are issued by the Commissioner. (T. D. 211; September 11, 1900.)

Instructions (Int. Rev. circular No. 586) as to the use of microscopes by internal-revenue collectors, etc., for the detection of oleomargarine, are forwarded to collectors. (T. D. 256; December 11, 1900.)

Opinions of Attorney-General.

Cigars imported from Philippine Islands:

Opinion of the Attorney-General that no internal-revenue tax is imposed, under the laws of the United States, on cigars shipped from the Philippine Islands to this country. Goods brought from the Philippine Islands not imported from a foreign country, within the meaning of the revenue laws. The provisions of section 3448, Revised Statutes, inoperative in the Philippines since the Philippine act of July 1, 1902. The provisions of section 3394, Revised Statutes, apply only to cigars manufactured within the bounds of the internal-revenue laws. (T. D. 581; September 17, 1902.)

Opinions of Attorney-General—Continued.

Contingent interests—Legacy tax:

Contingent interests not vested prior to July 1, 1902, are not subject to legacy tax under section 3, act of June 27, 1902. Congress did not intend to make any distinction between the use of the terms "Vested" in the first paragraph and "vested in possession or enjoyment" in the second paragraph of that section. (T. D. 570; August 27, 1902.)

Export bills of lading:

Where goods are received for transportation from any point in the United States to a foreign point, and any part of the transportation is within the territory of the United States, the bill of lading must be stamped with a 1-cent stamp, being the tax on the domestic part. (T. D. 524; May 17, 1902.)

Stamp tax—Stock pledged as collateral:

A memorandum of delivery of certificates of stock deposited as collateral security for the future payment of money taxable under the first paragraph of Schedule A, act of June 13, 1898, now a part of the act of March 2, 1901. Rule for construction of amendatory statutes. (T. D. 457; January 6, 1902.)

P.

Packages of tobacco.

Cavendish, plug, and twist:

Manufactured plug tobacco can be sold at retail only from packages properly labeled and stamped. No authority for stamping each plug of tobacco intended for sale at retail for 5 or 10 cents. (T. D. 685; July 27, 1903.)

Section 3362 of the Revised Statutes provides that all cavendish, plug, and twist tobacco shall be put up in wooden packages containing not exceeding 200 pounds of tobacco, and this statute has not been so construed as to permit manufacturers to put up small packages of plug or twist tobacco containing less than 1 pound. (T. D. 683; July 21, 1903.)

One-ounce packages:

The act approved April 12, 1902, establishes a 1-ounce package of smoking tobacco, and such packages must be properly labeled and stamped. There is no authority of law for unstamped subdivision packages intended to be given away as free samples, and the application for the recognition of smaller packages is denied. (T. D. 659; May 6, 1903.)

Statutory packages:

Manufacturers should guard against putting up subdivision packages of tobacco of a weight so closely approaching the weight of a statutory package as to call for an investigation of their goods on the market to determine whether packages requiring stamps have been removed without the proper stamps being affixed thereto. (T. D. 725; December 5, 1903.)

Statutory packages required:

All manufactured tobacco is required to be put up in packages containing a statutory quantity of tobacco properly labeled and stamped. Any person having manufactured tobacco in his possession, and not intended for his own use, without proper stamps for the amount of tax thereon being affixed to the packages, will incur the penalties denounced by section 3374 of the Revised Statutes of the United States. (T. D. 686; July 27, 1903.)

Subdivision packages:

Inasmuch as the law provides that all manufactured tobaccco, for sale or removal, shall be put in packages of certain sizes, the Commissioner feels justified in

Packages of tobacco—Continued.

Subdivision packages—Continued.

abolishing the use of subdivision packages of smoking and chewing tobacco, and in fact it has not been discovered that any legal authority exists for the putting up of packages of tobacco, snuff, or cigars in any sizes other than those provided for by section 3362, Revised Statutes, as amended. (T. D. 723; November 30, 1903.)

Passage tickets to Porto Rico.

Exemption of passage tickets for diplomats:

Passage tickets, when purchased and used by any member of the foreign diplomatic corps, are exempt from stamp tax on any vessel going from a port of the United States to a foreign port. (T. D. 20196; October 13, 1898.)

Passage tickets—Stamp tax:

The rule of exemption allowed October 13, 1898, to the foreign diplomatic corps, in regard to stamping passage tickets (T. D. 20196), is extended to butlers and servants attached to foreign embassies and legations to this country. (T. D. 295; March 7, 1901.)

Passage tickets from United States to foreign port, issued before July 1, 1901, though for sailing after that date, are taxable under the law now in force. (T. D. 303; March 21, 1901.)

Steamship tickets taxable:

The military occupation of Porto Rico by the United States Army and the signing of the protocol between this Government and the Government of Spain did not create such a condition as to render the island a United States possession to the extent of exempting from stamp tax steamship passage tickets for passengers going from American ports to Ponce. (T. D. 19964; August 24, 1898.)

Pawnbroker's tax.

A person using no tickets in his business, but making a pretense of buying articles which are brought to him, which he holds with a verbal agreement that the articles can be bought back again by the person selling them, upon the payment of a specified bonus, is liable to special tax as pawnbroker. (T. D. 20439; December 15, 1898.)

It is held that the lending of money on life-insurance policies and the holding possession of them as collateral security is not that ordinarily or usually known as the business of a pawnbroker, and, therefore, is not subject, as such, to special tax as a pawnbrokerage. (T. D. 459; January 10, 1902.)

Special tax of pawnbroker is not required to be paid for making loans when the chattels are not taken or received by way of pledge, pawn, or exchange. (T. D. 20552; January 17, 1899.)

The loaning of money on warehouse receipts, where the goods described therein are not themselves received by the lender into his actual possession, is not the business of a pawnbroker as defined by the statute. (T. D. 198; August 15, 1900.)

Payers of special tax.

Alcoholic compounds—Fruit juices:

Fruit juices sold to the liquor trade for blending purposes are compound liquors, and no person can engage in making them for sale without being regarded as a rectifier and being required to pay special tax accordingly under the third subdivision of section 3244, Revised Statutes of the United States; and, further, that fortified sweet wines can not be permitted to be used in compounding "fruit juices," for the reason that under the law relating to fortification of pure sweet wines tax bas not been paid on the brandy contained therein. (T. D. 807; July 11, 1904.)

Payers of special tax—Continued.

Alcoholic liquor supplied by physicians to patients:

A physician who furnishes patients with distilled spirits, wine, or malt liquor, to which no drug or medicinal ingredient has been added, involves himself in special-tax liability under the internal-revenue laws. (T. D. 806; July 11, 1904.)

Alcoholic medicinal compounds, peruna:

There is no special tax under the internal-revenue laws of the United States for the sale of peruna or other alcoholic compounds under a label holding them out only as remedies for specified diseases. If sold as a beverage, special tax is required. (T. D. 809; July 15, 1904.)

Alphabetical list special-tax payers:

All persons interested are entitled to examine the alphabetical list of special-tax payers kept in the collector's office when it does not interfere with officers in their public duties. Record 10 must contain the true names of special-tax payers and not fictitious ones, and be kept so that any person who examines this record can locate at once the place where the business is done. (T. D. 846; December 14, 1904.)

Record 10 contains the registration of special-tax payers contemplated by section 3233, Revised Statutes, and nothing can be lawfully omitted therefrom which the statute expressly requires to be included therein. (T. D. 821; August 30, 1904.)

Angostura bitters—Prune juice:

Special tax of a liquor dealer is required to be paid for the sale of prune juice that has been fortified by spirits or other alcoholic liquor, and also for the sale of Angostura bitters. There is no special tax for the sale of such preparations as "essence of peppermint," etc. (T. D. 787; May 7, 1904.)

Apple juice mixed with spirituous liquor:

Where a beverage is simply the juice of the apple or the juice of the apple flavored by any other fruit juice, special tax under the internal-revenue laws of the United States is not required to be paid for its sale, even though by fermentation it has become an intoxicant; but special tax is required to be paid for the sale of apple juice mixed with spirituous liquor regardless of whether or not the beverage is intoxicating. (T. D. 801; June 21, 1904.)

Auctioneers selling liquors:

Auctioneers must hold the requisite special-tax stamp as liquor dealers under the internal-revenue laws of the United States for selling alcoholic liquors, even when they confine these sales to liquors consigned to them by executors of estates, trustees, or receivers, or other officers acting under order of court. (T. D. 827; September 20, 1904.)

Auctioneers selling for railroad company:

Where separate consignments of wine are held by a railroad for freight charges the special tax of a liquor dealer is not required for separate sales of the packages if each consignment is sold as one parcel. (T. D. 828; September 24, 1904.)

Payment of stamp tax.

Having reference to the payment of documentary stamp taxes accruing under act now repealed, collectors are advised that there is no objection to such payment due under repealed acts, reporting the same for assessment on their next list, and issuing a receipt therefor on Form 1. In no case must a receipt be given for a tax paid by the purchaser of a documentary stamp (sec 3183, Rev. Stat.). (T. D. 554; June 18, 1902.)

Peddlers—Prosecution.

Peddlers of tobacco:

Merchants and country storekeepers running huckster wagons through the country taking orders for goods, including tobacco, snuff, or cigars, to be subsequently delivered, and who do not carry tobacco, snuff, or cigars on their wagons from which to make immediate delivery, are not required to qualify as peddlers of tobacco. The statutory definition of a peddler of tobacco, as given in section 3244, subdivision 11, is any person who sells, or offers to sell and deliver, manufactured tobacco, snuff, cigars, or cigarettes, traveling from place to place in the town or through the country. (T. D. 817; August 23, 1904.)

Place of sale must be designated:

In prosecuting peddlers of distilled spirits evidence should be obtained showing that the peddler sold distilled spirits at some particular place on the street or highway, or elsewhere, and the evidence should be reported to the district attorney, with the request that he institute prosecution against the peddler for having sold distilled spirits at that particular place without paying special tax as a liquor dealer. The prosecution should not be in general terms as against a peddler of distilled spirits. (T. D. 584; September 24, 1902.)

The registry of peddlers of tobacco must be made in a "certificate of registry" always conspicuously displayed in the place of business, the certificate being nontransferable. (T. D. 505; April 17, 1902.)

Penalties.

Disclosure of liability:

In all cases where taxpayers disclose their liability, either verbally or in writing, to a collector or a deputy collector, such officers should see that the taxpayer is supplied with a return, or prepare a return for him, as provided in section 3173, Revised Statutes. No penalty accrues where parties consent to disclose their liability to special tax within the calendar month. (T. D. 239; November 3, 1900.)

Liability for special tax and penalty:

Where it is found in the case of any person, after the lapse of fifteen months by you of a list upon which assessment might have been made, that he has involved himself in liability for special tax and penalty, there can be no assessment of this tax and penalty in view of the statutory limitation. But under the long-settled ruling any person by making waiver of this limitation and paying the amount of the tax can secure relief from the 50 per cent penalty, and the tax only will be assessed. (T. D. 645; March 28, 1903.)

Neglect in making returns:

The lack of blank forms is no excuse for the neglect to make returns. Sickness or absence no excuse if the taxpayer is well and present long enough in the month to give a reasonable opportunity to make the return. (T. D. 232; October 13, 1900.)

Penalty envelopes:

The right to use penalty envelopes is confined to the Departments and Bureaus of the Government, and officers connected therewith, for transmitting mailable matter relating exclusively to Government business. (T. D. 265; January 16, 1901.)

Penalty envelopes in private hands:

Collectors are instructed to see that penalty envelopes issued to them for official use are not allowed in the hands of private parties, except as provided by law, and will notify deputy collectors, storekeepers, and storekeeper gaugers acting

Penalties—Continued.

Penalty envelopes in private hands—Continued.

under their supervision that they will be held responsible for the proper use of such envelopes placed in their charge. (T. D. 319; April 4, 1901.)

Treasury departmental practice:

It is the practice of the Treasury Department to decline to furnish penalty envelopes to national-bank depositaries, in which to send to the Secretary of the Treasury the original of every certificate of deposit issued by them, which they are required to transmit by the provisions of section 3621, Revised Statutes as amended. (T. D. 833; October 14, 1904.)

Perfumery, cosmetics, etc. (See also Decisions 19564, 19614, 19702, 19705.)

1. Samples of all articles mentioned in Schedule B, act of June 13, 1898, when removed for consumption by gratuitous distribution or otherwise, are liable to stamp tax, according to the retail price or value of such sample, on and after July 1, 1898.
2. Perfumeries and cosmetics and other articles of a similar nature, taxable under Schedule B, are equally liable to stamp tax when sold in bulk packages as when sold in retail packages, and the value of the stamp or stamps to be affixed must correspond with and be proportionate to the price charged for the smallest retail package with its contents. (T. D. 19563; June 23, 1898.)

Petrolatum—Stamp tax.

Caution notice:

Prescribing a caution notice to be affixed to bulk packages of petrolatum, under which the same may be removed, in certain cases, unstamped, and ruling that the exemptions in section 20, act of June 13, 1898, have no application to it. (T. D. 21073; April 26, 1899.)

Stamp tax computed on retail price:

Petrolatum is taxable whether intended to be used as a medicine, cosmetic, lubricant, or otherwise. The manufacturer or refiner should stamp petrolatum in bulk, or otherwise, before removal from his possession for consumption or sale, and the stamp tax must be computed upon the retail price of the article, which is held to be the refiner's price, with reasonable profit to the jobber and retailer added. (T. D. 20982; April 5, 1899.)

Tax under Schedule B:

Petrolatum is subject to stamp tax, under Schedule B, regardless of the style and manner in which it is put up and sold. (T. D. 20780; March 1, 1899.)

Pipe-line companies—Special tax.

Persons, firms, and companies owning or controlling pipe lines connected with mains or pipes for distributing natural or artificial gas not exempt from tax imposed by section 27, act of June 13, 1898. (T. D. 21494; August 10, 1899.)

Tax imposed by section 27, act of June 13, 1898, held to apply to gross receipts of persons, firms, or companies owning or controlling any pipe line for transporting natural gas. (T. D. 21341; July 1, 1899.)

Philippine Islands.

Articles shipped in bond or with drawback:

The existing regulations governing the exportation to foreign countries of articles subject to internal-revenue tax, or on which such tax has been paid, are hereby extended and made applicable to like articles shipped from the United States to the Philippine Islands, in bond or with benefit of drawback. (T. D. 491; March 21, 1902.)

Philippine Islands—Continued.

Inspection and stamping imported cigars:

Section 2804, Revised Statutes, as amended by section 26 of the act of August 28, 1894, requires the inspection and stamping of imported cigars before delivery from customs custody. It is held, therefore, by the Secretary of the Treasury that cigars from the Philippine Islands should be stamped with customs stamps like cigars imported from foreign lands and that the word "Philippines" should be placed on the stamps by way of distinction. (T. D. 582; September 23, 1902.)

Passage tickets no longer taxable:

Referring to the necessity for stamping passage tickets sold for passage between the United States and the Philippine Islands, it is held, in pursuance of a decision of the Supreme Court of the United States, that by the treaty ceding the Philippines, the islands ceased to be foreign territory, and, therefore, passage tickets thereto are no longer subject to stamp tax under the internal-revenue laws. (T. D. 498; April 11, 1902.)

Philippine cigars tax:

The first section of the Philippine act of July 1, 1902, provides, in effect, that the laws of the United States shall not apply to the Philippine Islands, and, therefore, since that act went into effect the Attorney-General holds that section 3448, Revised Statutes, has been inoperative in the Philippines. He holds further that the provisions of section 3394 undoubtedly apply only to cigars manufactured within the bounds of our internal-revenue laws—i. e., within the territory where these laws are operative. If this view is not correct there was apparently no necessity for the passage of section 3402, which says that "all cigars imported from foreign countries shall pay an internal-revenue tax." (T. D. 581; September 17, 1902.)

Philippine export tax:

All articles which may be exported free of tax or with benefit of drawback to foreign countries may also be so exported to the Philippine Islands under provisions of section 6 of Philippine tariff act approved March 8, 1902. (T. D. 483; March 11, 1902.)

Refunding taxes:

As to claims for a refund of taxes paid on articles shipped to the Philippine Islands, the Commissioner rules that the character of the goods shipped, the date of shipment, the amount of tax paid thereon, the name of the vessel, and the name of the port to which shipped should should be stated in the body of the claim. The claims should be supported, where possible, by clearance certificates and by an affidavit of the consignee, showing that the goods were actually received at a port of the Philippine Islands. (T. D. 542; July 3, 1902.)

Secretary of Treasury to San Francisco collector:

The Secretary of the Treasury advises the collector of customs at San Francisco, September 12, 1902, to the effect that no internal-revenue tax can be legally assessed, under the laws of the United States, on cigars shipped from the Philippine Islands. (T. D. 582; September 23, 1902.)

Temporary revenue act:

An act temporarily to provide revenue for the Philippine Islands, and for other purposes. Articles subject to internal-revenue tax may be shipped to the Philippine Islands without payment of tax or with benefit of drawback as to a foreign country, under regulations to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. (T. D. 484; March 13, 1902.)

Phosphates, ciders, etc.—Special tax.

Addition of distilled spirits:

If distilled spirits are added to the beverages called "phosphates" or "ciders" to any extent whatever sufficient to bring them within the notice of the internal-revenue laws, they are changed into alcoholic compounds, and the manufacturer is required to pay special tax as a rectifier for making such compounds for sale, and as a liquor dealer for selling them. (T. D. 475; February 25, 1902.)

Compound liquors:

Beverages manufactured for sale as phosphates, ciders, etc., if made by the addition of distilled spirits or wines to other materials in any quantity coming within the notice of the internal-revenue laws, are compound liquors, for the manufacture and sale of which special tax is required to be paid. (T. D. 475; February 25, 1902.)

Playing cards—Stamp tax.

Tax is required to be paid, and the requisite stamp affixed, on each pack of miniature playing cards, notwithstanding they are made for candy manufacturers to pack in packages of candy, one card in each package. (T. D. 843; November 17, 1904.)

Playing cards, having certain advertising matter on the back of each card, are subject to stamp tax. (T. D. 637; March 16, 1903.)

Porto Rico. (See Decision (stamp tax) No. 252.)

Articles exported:

Articles subject to internal-revenue tax, exported to Porto Rico from and after May 1, 1900, are not entitled to be exported free of tax or with benefits of drawback under internal-revenue laws. (T. D. 107; April 23, 1900.)

Instructions set forth in circular No. 54 (Int. Rev., No. 565) as to internal-revenue tax imposed by section 3 of the act of April 12, 1900, upon articles of merchandise imported from Porto Rico from and after May 1, 1900. (T. D. 109; April 25, 1900.)

Instructions in circular No. 56 (Int. Rev., No. 566) as to forms and methods of procedure in the collection of Porto Rican internal-revenue taxes. (T. D. 110; April 25, 1900.)

Articles taxable under act of 1900:

From and after May 1, 1900, under Treasury decision No. 22157, dated April 17, 1900, the following articles manufactured or produced in the United States can not be exported to Porto Rico in bond without the payment of tax, nor with the benefit of drawback as heretofore, viz: Distilled spirits, stills, and worms; tobacco, snuff, cigars, and cigarettes; fermented liquors; playing cards; oleomargarine; mixed flour; proprietary articles, medicines, bottled wine, and all other products named in Schedule B, war-revenue act. (T. D. 113; April 28, 1900.)

Custom-house manifests exempt:

Manifests for custom-house entry or clearance are exempt from stamp tax when relating to vessels to or from ports in Porto Rico. (T. D. 203; August 18, 1900.)

Porto Rican manufactures imported:

No permit for release is required for articles of merchandise arriving from Porto Rico with proper internal-revenue stamps affixed. (T. D. 413; September 24, 1901.)

Porto Rican manufactures coming into the United States, though relieved of customs dues, are subject to internal-revenue tax. (T. D. 407; August 22, 1901.)

Porto Rico—Continued.

Porto Rican manufactures imported—Continued.

Section 3, act of April 12, 1900, provides that "upon articles of merchandise of Porto Rican manufacture coming into the United States and withdrawn for consumption or sale upon payment of a tax equal to the internal-revenue tax imposed in the United States upon the like articles of merchandise of domestic manufacture; such tax to be paid by internal-revenue stamp or stamps to be purchased and provided by the Commissioner of Internal Revenue, and to be procured from the collector of internal revenue at or most convenient to the port of entry of said merchandise in the United States, and to be affixed under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe." (T. D. 387; July 26, 1901.)

Porto Rico's status under Treasury Decision 107:

In accordance with Treasury decision 107, it is held that from and after May 1, 1900, Porto Rico is not to be considered a foreign country, in the meaning of Schedule A, war-revenue laws, and therefore passage tickets from any port of the United States are exempt from stamp tax. (T. D. 115; May 1, 1900.)

United States revenue laws under act of 1900:

In view of the provisions of section 3, act of April 12, 1900, the United States internal-revenue laws are not in force in Porto Rico. (T. D. 216; September 25, 1900.)

Bay rum manufactured in Porto Rico, when brought into the United States, is liable to internal-revenue tax as distilled spirits. (T. D. 404; August 15, 1901.)

Post stamping—Instruments and documents.

An attorney may affix or cancel stamps:

The parties to an instrument can, by a proper power of attorney, or by an equivalent written instrument, authorize a person to affix and cancel the stamps that are necessary to be affixed to the instrument, if this occurs *before* the party who makes or signs the instrument delivers it to the party to whom it is to be issued. (T. D. 21153; May 15, 1899.)

Recorders of deeds should note upon their records the absence or the presence of stamps on documents presented for record. (T. D. 21226; June 2, 1899.)

Collector may affix stamp after imposing penalty:

Any person who has not affixed to an instrument the stamp required by law at the time of executing or issuing the same should present the instrument to a collector of internal revenue, who shall, upon payment of the tax due, and penalty, if any is required, affix the proper stamp and note the date when affixed upon the margin of the instrument. (T. D. 546; July 8, 1902.)

Penalties remitted by reason of mistake:

Deputy collectors may remit penalties and stamp instruments left unstamped by reason of inadvertence or mistake, when authorized by the collector to exercise such authority for the time being. Instruments to be validated may be sent from a distance to the collector by mail, with affidavit, instead of being personally brought to the collector's office. (T. D. 20696; February 10, 1899.)

Penalty not revokable after twelve months:

Collectors can not remit penalty for omission of stamps where the instrument was presented more than twelve months after it was issued. When the instrument is presented at the expiration of twelve months, after issue, it is necessary to require payment of the penalty to entitle it to be stamped. (T. D. 21368; July 10, 1899.)

Post stamping—Instruments and documents—Continued.

Post stamping allowable in absence of fraud:

Where penalties are incurred for failure to stamp instruments, section 13, the act of June 13, 1898, provides that, if within twelve months after failure to stamp instruments, the parties failing shall bring them to the collector and pay the proper stamp charges, and it shall appear to the collector that the failure was caused by accident, mistake, inadvertence, or urgent necessity, without any design to defraud the United States or to evade or delay the payment thereof, it shall be lawful for the collector to remit the penalties and permit such instruments to be stamped. The Commissioner of Internal Revenue can not remit such penalties or refund them when collected with authority. (T. D. 166; June 28, 1900.)

Post stamping when free from fraudulent intent:

As to post stamping of instruments and documents after twelve months from date of issue, in any case where the omission of the stamp was free from fraudulent intent, and where no adverse right has been in good faith acquired between the dates of execution of the first and second instruments, the law specifically protects such right in the last proviso to section 13, act of June 13, 1898, wherein it is prescribed that the post-stamped instrument "may be used in all courts and places in the same manner and with like effect as if the instrument had been originally stamped." The contrary decision of Judge Stake, printed in Treasury decisions, ruling No. 53, March 1, 1900, is held to be unsound in law. (T. D. 90; April 3, 1900.)

Treasury decision 21539:

The final paragraph of Treasury decision 21539, August 25, 1899, explained as meaning that when an unstamped instrument is brought to the collector for validation under section 13 of the law, after twelve months have expired from the date of execution, and the party holding the instrument does not wish to pay the penalty of $10 required, to have the same validated the collector may receive the amount of the stamp tax due on the instrument by selling the appropriate stamp, which must be affixed by the party himself thereto. (T. D. 197; August 13, 1900.)

Unstamped instruments as evidence in court:

The law provides that no instrument required by law to be stamped, from which the proper stamp is omitted, shall be recorded or used as evidence in any court until properly stamped. The person who issues the instrument should affix and cancel the stamp, or incur a penalty not exceeding $100, if the omission be not inadvertent. A register who receives an unstamped instrument for record should return it to the sender to be stamped according to law. (T. D. 94; April 12, 1900.)

Powers of attorney, etc. (See also Decisions 19605.)

Transfers and voting stock:

An instrument authorizing the secretary to transfer stock on the books of a company or corporation is not held to be subject to stamp tax as a power of attorney. (T. D. 21467; August 2, 1899.)

Powers of attorney embodied in leases must pay the tax required for both instruments. (T. D. 282; February 15, 1901.)

Powers of attorney, or proxies, used for the purpose of voting at meetings of building and loan associations, are subject to stamp tax, and all former rulings inconsistent with this are revoked. (T. D. 270; January 26, 1901.)

Powers of attorney, proxies, receipts, sales of certificates of stock, etc., are liable to stamp tax under certain conditions. (T. D. 19700; July 15, 1898.)

Subscriptions to the 3 per cent Government loan are not taxable under the war-revenue law, but powers of attorney require a 25-cent stamp to be affixed,

Powers of attorney, etc.—Continued.

Transfers and voting stock—Continued.

except powers for the collection of pensions, bounty, etc., claims from the United States, or property lost in the military or naval service. (T. D. 19621; July 2, 1898.)

Proceeds, sales.

Collectors are notified that it is not necessary to procure separate certificates of deposit for sums realized from the sales of real estate, and that the same should be included in their regular daily certificate. (T. D. 278; February 12, 1901.)

Surplus proceeds of distraint sales:

Surplus proceeds, arising from the sale of property distrained and sold under internal-revenue laws for the nonpayment of taxes, must be deposited with the Treasurer of the United States, who, upon application and satisfactory proofs in support thereof, shall, by warrant on the Treasury, cause the same to be paid to the person legally entitled to receive them. (See section 3195, Revised Statutes.) (T. D. 390; July 29, 1901.)

Proprietary articles—Stamp tax. (See also Medicinal preparations.)

Articles priced less than 5 cents:

Five cents being the lowest retail price mentioned in Schedule B, taxable articles retailing for a less sum may be packed together under one wrapper, band, or other inclosure when the retail price of said packages shall not in the aggregate exceed 5 cents, and a stamp for one-eighth cent shall be affixed on the outside band or wrapper, or other inclosure, in such a manner that the stamp will be wholly destroyed in opening the same. In such cases each subpackage shall have printed thereon the words, "Sold from a duly stamped package." (T. D. 19694; July 14, 1898.)

Articles proprietary that are not taxable:

Manufacturers and importers are required to fix the retail price of articles sold by them, and to stamp their goods accordingly. (T. D. 19705; July 16, 1898.)

Such articles as insect powders, bugine, insectine, killerine, put up for killing of insects, come under the head of proprietary articles, but are not taxable under any provision of law taxing proprietary articles. (T. D. 19557; June 22, 1898.)

Chemical preparations:

Artificial mineral waters, advertised as beneficial for gout, rheumatism, etc., are held to be taxable under paragraph 1, Schedule B, act of June 13, 1898, and the stamp should be affixed to each bottle or siphon in accordance with the retail price or value. (T. D. 19622; July 5, 1898.)

Stamping of chemical preparations and prepared drugs. Malt-extract preparations. Food preparations. Bulk packages. Retailer selling drugs at "cut prices" must stamp them according to the advertised retail price fixed by the manufacturer. (T. D. 19614; July 1, 1898.)

Drugs, uncompounded:

Decision of the United States district court, southern district of New York, November 22, 1898, relating to stamping of "uncompounded medicinal drugs or chemicals." Aristol, phenacetin, europhen, piperazine, protargol, losophen, sulfonal, tannigen, tannopine, and salophen are exempt from stamp tax by proviso in section 20, act of June 13, 1898, as "uncompounded" drugs. (T. D. 20634; January 24, 1899.)

Keeley's medicines taxable:

Articles taxable under Schedule B in the hands of retail dealers July 1, 1898, must, when sold, be stamped according to the retail price as fixed by the manufacturer. (T. D. 19603; June 29, 1898.)

Proprietary articles—Stamp tax—Continued.

Keeley's medicines taxable—Continued.

If the retail price commonly charged for a proprietary article does not properly represent the tax stamp affixed, that fact will be evidence of bad faith on part of the manufacturer, making the goods liable to seizure. (T. D. 20324; November 15, 1898.)

The medicines known as Keeley's "double chloride of gold remedies" are taxable as proprietary preparations and must be properly stamped before removal from the laboratory, whether for sale to patients or to institutes. (T. D. 20095; September 26, 1898.)

Liability of certain preparations:

Regulations as to liability of medicinal preparations and perfumery and cosmetics to stamp tax under Schedule B, act of June 13, 1898. See circular No. 16, Internal Revenue, No. 501, revised. (T. D. 37; February 8, 1900.)

Requirement of Schedule B, war-revenue act:

The maker or manufacturer of any of the articles named in Schedule B, act of June 13, 1898, on and after date of said act, must affix the proper stamp thereto before the same are sold, sent out, removed, or delivered; and wholesale or retail dealers, not manufacturers thereof, must affix the proper adhesive tax stamp at the time the packet, box, bottle, pot, phial, or other inclosure, with contents, is sold at retail. (T. D. 19527; June 21, 1898.)

Ruling as to "sheep dip:"

Revoking a previous ruling, it is now held that, although the preparation of "sheep dip" may be used as a remedy for sheep scab after it has been developed, its primary use is as an insecticide to kill insects and parasites before sheep become diseased, and it is therefore exempt from tax. (T. D. 19824; August 4, 1898.)

Standard extracts at retail:

As to standard extracts, such as perfumes, in order to secure a uniform method of computing the tax, it is held that 8 ounces shall be considered to be the largest retail package, and that quantities in excess of 8 ounces are to be taxed as bulk packages. Retail packages must be stamped in accordance with the price to consumers, and bulk packages in accordance with the number of 8-ounce packages contained therein, and according to the retail price of the 8-ounce packages. (T. D. 73; March 15, 1900.)

Custom-house officers are notified that imported bay rum, in bulk packages, must be stamped to the amount of $8\frac{3}{4}$ cents per gallon. (T. D. 187; July 27, 1900.)

Proprietary stamps furnished by the Government may be sold to all persons applying therefor. Those made from private designs and furnished without expense to the Government can only be had from their proprietors. (T. D. 93; April 10, 1900.)

Taxable articles unstamped after 1899:

All velvet molasses candy manufactured by H. L. Hildreth, of Boston, is relieved from liability to seizure by removal prior to December 5, 1899, and payment of $5,000 as assessment to the collector at Boston. All proprietary goods having taxable features found unstamped subsequent to December 5, 1899, are liable to seizure. (T. D. 39; February 10, 1900.)

Treasury decision 19694 as to subpackages:

Under Treasury decision 19694, made July 14, 1898, as to the packing and stamping of articles mentioned in Schedule B, it is now held that taxable articles of medicine, perfumery, etc., retailing for less than 5 cents may be put up

Proprietary articles—Stamp tax—Continued.

Treasury decision 19694 as to subpackages—Continued.

as therein directed and stamped, and, on destroying the stamp, the subpackages may be detached and placed in a vending or slot machine. Each subpackage must be labeled in these words, viz, "Sold from a duly stamped package." (T. D. 247; November 17, 1900.)

Waters advertised as "cures:"

It is held by the Commissioner that all "waters" advertised as cures or specifics for any ailment come within the purview of the statute relating to medicinal preparations, with the exception of the exemption provided in the first paragraph of Schedule B for "natural spring waters and carbonated natural spring waters," and in section 20 for "uncompounded medicinal drugs or chemicals." (T. D. 61; March 7, 1900.)

Prosecutions and suits.

The duties of collectors:

It is the duty of collectors of internal revenue to look after cases in suit, to keep advised of the status of each case, watch its progress, consult with the district attorney as occasion may require, and furnish him with necessary information. (T. D. 702; September 26, 1903.)

Prunes—Wine.

Prune juice—Liability for sale:

A person can not lawfully sell prune juice or prune extract, containing about 3 per cent of alcohol, even though the article is not sold otherwise than as a supply for bottlers and as a preparation for coloring, without holding the requisite special-tax stamp as a liquor dealer. (T. D. 824; August 31, 1904.)

Wine manufactured therefrom:

Responding to the inquiry as to whether any revenue must be paid to the Government on wine manufactured from prunes, the Commissioner holds that if it is simply a wine manufactured from the juice of prunes, and is not made in imitation of sparkling wine, and if there is no addition of distilled spirits thereto (sec. 3328, Rev. Stat.) there is no tax thereon under the internal-revenue laws of the United States; but dealers therein are required to pay special tax as liquor dealers under these laws. (T. D. 633; March 4, 1903.)

Publication of monthly statements.

Collectors may furnish for publication monthly statements of the aggregate receipts from sale of stamps for tobacco, snuff, cigars, and cigarettes, but any information that would disclose the business done by, or the value of stamps issued to, any individual manufacturer must be withheld. (T. D. 263; January 9, 1901.)

Purchasing agents—Special tax.

Parties who do not buy and sell whisky or beer, but upon receipt of orders from foreign customers act merely as purchasing agents, do not involve themselves in special-tax liability. (T. D. 823; August 31, 1904.)

Puts, calls, and spreads.

A dealer in puts, calls, and spreads is subject to special tax and stamp tax under the first clause of paragraph 3, section 8, act of March 2, 1901, notwithstanding the fact that his business is not the same as that commonly known as "bucket shop." (T. D. 400; August 8, 1901.)

"Calls," being agreements to sell stock, are subject, as such agreements, to stamp tax. (T. D. 338; May 4, 1901.)

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Railroad checks—Stamp tax. (See, also, Decisions 21521; 21559.)

Collecting stamp tax:

The method in vogue by the Pullman Car Company, where a stamp is imprinted on the passenger's berth or seat ticket, a portion of it on both the original given to the passenger and on the duplicate retained by the conductor, is held to be the most satisfactory way of collecting the stamp tax on sleeping car and parlor car railroad tickets. (T. D. 21342; July 5, 1899.)

Conductors' rebate checks:

The ruling that rebate checks, issued by railroad conductors, being the excess on fares collected on trains, and being redeemable by the company's agent on presentation, are liable to stamp tax, has been revoked, in view of the opinion of the Attorney-General. Taxes which have been paid erroneously, according to this decision, can be refunded upon proper application being made therefor. (T. D. 20170; October 12, 1898.)

Rebate claims—Tobacco.

Affidavit needs no special form:

No special form of affidavit or statement is required to be made by a consignor to accompany a claim made by a consignee for rebate of taxes on tobacco and snuff which may be in transit on July 1, 1902. Any affidavit and statement agreeing substantially with the form following will be accepted as competent evidence in support of a claim for rebate on tobacco or snuff in transit. The consignee, after receiving all goods that were in transit July 1, 1902, from several persons, may include them in one claim instead of making separate claims for individual consignments. (T. D. 521; May 13, 1902.)

Appropriation for rebate claims:

The act of Congress, approved June 28, 1902, appropriates $2,700 for the payment of claims for rebate of tax on tobacco and snuff, under the act of April 12, 1902. It is essential that no incomplete claim for rebate shall be certified to the Bureau of Internal Revenue; and all required affidavits, bills of sale, and bills of lading, relating to goods in transit, and all affidavits explaining why an inventory was not taken of the goods on July 1, in the presence of two disinterested witnesses, should be procured before any doubtful claim of that character is certified for payment. (T. D. 579; September 12, 1902.)

Claims allowable to be promptly reported:

It is the duty of collectors to ascertain the actual number of claims allowable, presented at their several offices, for rebate on tobacco and snuff, under the act of April 12, 1902, within the limitation of time fixed by statute, and report immediately the number and the probable amount of rebate involved. (T. D. 579; September 12, 1902.)

Inventoring packages of irregular size:

If the packages of tobacco are of irregular size, and the net weight includes pounds and fractions of a pound, they should be inventoried in columns 9 and 12, on Form 481, the fractions being written opposite the proper number of pounds printed on the form. (T. D. 363; June 21, 1901.)

Where a dealer in tobacco, snuff, or cigars has two or more places of business, he will be required to inventory and make a separate claim for rebate on goods held at each place. If the aggregated rebate on all tobacco, snuff, and cigars held at one place on the 1st day of July amounts to less than $10, it would not be an allowable claim. (T. D. 369; June 24, 1901).

Rebate claims—Tobacco—Continued.

No rebate on stamped packages:

No rebate will be made on stamped packages of tobacco, snuff, or cigars in the hands of dealers, except such as were purchased previous to July 1, 1901, and which are in their hands or in transit on that date, and no rebate will be made on unused stamps issued previous to July 1, 1901, and held by manufacturers of tobacco on that date, nor can such unused stamps be exchanged for other stamps issued on a basis of 20 per cent discount. (T. D. 327; April 18, 1901).

Packages of tobacco and snuff:

The act of March 3, 1903, amendatory of the act of April 12, 1902, as to payment of rebate of tax on tobacco and snuff, provides that claims for such rebate, presented after the sixty days' limit, shall be allowed on proper evidence, "provided that the tobacco and snuff on which such rebates are claimed were duly inventoried on July first, nineteen hundred and two, in accordance with the regulations of the Commissioner of Internal Revenue, but no such claims shall be paid unless presented prior to April first, nineteen hundred and three." The date of the receipt of the collector must be indorsed on each claim before the transmittal of it to the Commissioner. (T. D. 634; March 5, 1903.)

Rebate only on unbroken packages:

A rebate will be paid only on original and unbroken factory packages of tobacco and snuff in hands of dealers or manufacturers or in transit July 1, 1901. Tobacco and cigars sold and delivered on and after that date are not subject to rebate. Unused stamps held on that date by manufacturers of tobacco will not be subject to rebate, nor can the same be exchanged for stamps issued on a basis of the 20 per cent discount. (T. D. 327; April 18, 1901.)

Rebate on snuff in transit:

The Commissioner holds that, under the act of April 12, 1902, a claim made for rebate of taxes on tobacco or snuff actually in transit July 1, 1902, will be regarded as cumulative—that is, a dealer who on that day has tobacco or snuff in transitu, purchased and consigned to him from different persons, may on receiving all of such goods include them in one claim, which must be accompanied with affidavits from the several consignors, original invoices or bills of sale, and duplicate bills of lading, relating, respectively, to each lot or consignment of tobacco alleged to have been in transit July 1, 1902, and included in his claim. (T. D. 521; May 13, 1902.)

Tobacco, snuff, or cigars in transit:

Tobacco, snuff, or cigars in transit when the discount or reduction in taxes takes effect can not be inventoried with goods actually on hand on the 1st day of July. Consignee, after receiving the goods in transit, may include the same in one claim with other goods that were also in transit on July 1 from different consignors. No claim can be allowed or drawback paid for a less amount than $10. (T. D. 372; June 25, 1901.)

Receipts—Stamp tax.

Mail carriers' receipts:

Gross receipts are assessed for tax, payable hereafter at the expiration of the current special-tax year. (T. D. 488; March 15, 1902.)

Receipts given by mail carriers who make a practice of carrying packages from one town to another, for which they receive a fee, are liable to a 1-cent stamp tax. (T. D. 478; March 3, 1902.)

Receipts—Stamp tax—Continued.

Receipts under Schedule A, war-revenue law:

A receipt not in the form of a bank check, draft, or certificate of deposit, not drawing interest, and not being an order for the payment of a sum of money, is not taxable at 2 cents, under paragraph 3, Schedule A, war-revenue law. (T. D. 19655; July 7, 1898.)

Special-delivery receipts:

Receipts issued for special-delivery baggage are exempt from stamp tax under war-revenue law; Treasury decision 21668 is revoked, upon reconsideration. (T. D. 13; January 9, 1900.)

Surrendering warehouse receipts:

Proprietors of special bonded warehouses may (except in case of tax-paid withdrawals) decline to deliver brandy stored in such warehouses until the warehouse receipts issued by him are surrendered, where the surrender of such receipts, before delivery of the spirits, is required by law. (T. D. 714; November 3, 1903.)

Warehouse receipts taxable:

Warehouse receipts need not be technically negotiable paper in order to be liable to tax. Judge Clark, of the circuit court of the United States, western district of the western division of Tennessee, holds that any ordinary warehouse receipt may or may not be negotiated in the qualified sense so as to pass the title to a third person, or be used as a pledge or security for a loan. (T. D. 469; February 5, 1902.)

(See also Decisions 6; 20985; 21020; 21692.)

Wharf receipts to shippers:

A wharf receipt, given to a shipper, in exchange for which a bill of lading bearing a stamp is issued, does not require a stamp. (T. D. 19604; June 29, 1898.)

Receipts of warehouses.

Cartman's tally tickets:

When no regular warehouse receipt has been issued in exchange for cartmen's tally tickets covering goods delivered for storage, then each tally ticket will be held to cover a separate consignment, and will require to be stamped as a warehouse receipt. (T. D. 21493; August 10, 1899.)

(See also Decisions 20914; 21044; 21524.)

Consignment of deliveries for storage:

Instruments evidencing storage of furs taxable as warehouse receipts; also taxable as fire-insurance policies when a fire-insurance risk is covered by the instrument. (T. D. 21110; May 10, 1899.)

Where there are a number of deliveries of goods for storage in fulfillment of only one consignment, the stamp tax is required on the single consignment and not on each of the several deliveries. But on each and every consignment of goods, separately delivered, the tax is due on the warehouse receipt given as evidence of storage. (T. D. 21079; May 2, 1899.)

Cotton received for compression:

Where cotton has been received for compression and handling and remains longer than the allotted time, no tax as a warehouse receipt accrues on the bill presented for the charges for storage. (T. D. 20883; March 20, 1899.)

Elements of a taxable receipt:

The elements necessary to constitute a taxable warehouse receipt are, viz: First, goods, merchandise, or property must appear to be dealt with; second, they are dealt with for purposes of storage, directly or indirectly; third, there must appear some acknowledgment or receipt of the goods, merchandise, or prop-

Receipts of warehouses—Continued.

Elements of a taxable receipt—Continued.

erty, the receipt being made by the warehouseman in person or by an authorized agent; fourth, some one must appear as the storer of the goods, the receipt being subject to a tax of 25 cents. (T. D. 20646; January 27, 1899.)

Receipt as a pledge:

When a warehouse receipt for grain is pledged as security for a loan, a tax accrues as a pledge, whether the pledge is made by the producer of the grain or by a dealer in grain. (T. D. 21497; August 15, 1899.)

Receipt not necessarily negotiable:

The Commissioner holds, with the opinion of the Attorney-General of December 29, 1898, that a warehouse receipt is not, necessarily, a negotiable writing, being nothing more nor less than the written statement of the warehouseman that certain goods, merchandise, or property are deposited in his warehouse and held on storage for some particular person or persons. It is the written evidence of the storage of the property. This is the paper or instrument which it is the intention of the law to tax. (T. D. 20484; January 3, 1899.)

Safe-deposit receipts taxable:

Books, household furniture, pictures, statuary, and wearing apparel not considered as "valuables;" and when safe-deposit or other companies receive such articles on deposit for hire, the receipts issued therefor must be stamped as warehouse receipts. The word "valuables" as used in paragraph 159, circular 503, revised, defined. (T. D. 21558; August 30, 1899.)

Thirty days' deposits prima facie taxable:

Though difficult to make an inflexible time limit in such cases, yet it is held that articles deposited in cold-storage warehouse for thirty days or more are considered as *prima facie* liable to tax as goods held for storage, and not primarily for preservation. (T. D. 21783; November 21, 1899.)

Rectifiers—Special tax.

Blackberry cordial:

The Commissioner concurs in the view that the producers of blackberry cordial, fortified with wine and flavored with blackberry, being required to pay special tax on rectification are not liable for stamp tax on their product, under either section 3328, or Schedule B, act of June 13, 1898. (T. D. 495; March 31, 1902.)

Blackberry wine and cordial:

"Blackberry wine" and "blackberry cordial" produced from grapes grown in the United States, fortified with spirits and flavored with blackberry, held to be a product of rectification, but not liable to stamp tax under section 3328, Revised Statutes. The "blackberry wine" so produced liable to stamp tax under Schedule B, act of June 13, 1898. (T. D. 495; March 31, 1902.)

Brands in epiral form prohibited:

A person who manufactures a medicine by mixing with alcohol roots and herbs, and sells such compound (bitters) under a label and stamp as a proprietary medicine, is not required to pay a special tax therefor as a rectifier. (T. D. 46; February 19, 1900.)

A special-tax stamp held by a corporation as a liquor dealer can not cover the same business carried on by any other person upon the ground that he had been a stockholder in the corporation at the time of its dissolution. (T. D. 45; February 17, 1900.)

Collectors are advised to notify rectifiers of liquor that brands in spiral form are no longer to be used on rectifiers' packages of spirits. (T. D. 721; November 24, 1903.)

Rectifiers—Special tax—Continued.

Exemption restricted to druggists:

Special tax as a rectifier required because of the recovery by a pharmaceutical still of alcohol used in extracting ginger from ginger root. No exemption from liability for setting up a still and reclaiming alcohol by means thereof, except in the case of druggists who use distilled spirits or wines in combination with drugs in the preparation of their medicines, who are permitted to recover, by means of a still, this alcohol for the sole purpose of using it again in the preparation of their medicines. Stills should be registered. (T. D. 619; January 17, 1903.)

Instructions as to certain compounds:

A manufacturer of wine from grapes who, by adding other materials, makes a spurious, imitation, or compound liquor for sale is liable as a rectifier; also liable under section 3449, Revised Statutes, in removing wines under false names. (T. D. 477; February 26, 1902.)

Any rectifier who is detected in filing a false notice as to the dumping of spirits for rectification, when the spirits are not actually in their possession and on their premises, should be promptly reported as in violation of the law and of the regulations of the Internal-Revenue Service. (T. D. 455; January 2, 1902.)

Collectors are instructed that circular ruling 55 was not intended as authorizing the detention of any of the compounds, to which it refers, that were put upon the market, unstamped, prior to the issuance of the same. (T. D. 88; April 5, 1900.)

Manufacture of prune juice:

As to the manufacture of prune juice, it is held that where the amount of proof spirits added exceeds 10 per cent of the whole quantity of the fruit juice and spirits combined "this office requires the product to be stamped as a compound alcoholic liquor, and the person making the mixture is required to pay special tax and otherwise qualify as a rectifier of spirits." (T. D. 313; March 28, 1901.)

Manufacturers of adulterations or compounds as rectifiers:

Instructions are given that manufacturers of so-called ciders, consisting of compounds or adulterations of wines or spirits, with various fruit extracts to flavor the mixture or adulterations, thereby producing so-called cider, should be required to qualify as rectifiers and place their product in merchantable packages, marked, stamped, and branded as rectified spirits. (T. D. 55; March 1, 1900.)

Rectification of blackberry cordial:

The special tax of a rectifier and liquor dealer is not required to be paid for the manufacture and sale of blackberry cordial composed of blackberry juice and water with the addition of cloves, cinnamon, sugar, and a sufficient quantity of alcohol to prevent fermentation, if this cordial is sold only under a label holding it out as a remedy for disease and is sold in good faith for medicinal use only. (T. D. 57; March 3, 1900.)

Rectification of imitation spirits:

The production of imitation, spurious, or compound liquors containing distilled spirits, to be sold as either cider or bounce, is held to be rectification. See also decision No. 20, on ciders. (T. D. 48; February 20, 1900.)

Rectifier's special stamp redemption:

As to whether or not the product of "blackberry wine" and "blackberry cordial" should be required to pay special tax, the Commissioner holds that the articles in question are to be treated in the first instance as the product of recti-

Rectifiers—Special tax—Continued.

Rectifier's special stamp redemption—Continued.

fication and put up in merchantable packages and reported on Form 237, after which the barrels containing same are to be marked, branded, and stamped with stamp for rectified spirits. (T. D. 495; March 31, 1902.)

Claims for rectifier's special-tax-stamp redemption should be prepared in conformity with the ninth paragraph of circular 568, which is as follows: "When the special taxes are collected for other than the current year, the collector will issue stamps of 'Series ———,' writing across the face thereof, and also across the stubs, in red ink, 'Issued ———, 19—, for the last ——— months of the special-tax year ended June 30, 19—,' signing the same in his official capacity." Exactly the same instructions have been given from year to year since 1873–74 in circulars relating to special-tax stamps for the coming fiscal or special-tax year.

Receivers and assignees—Special tax.

Receivers and assignees of firms and corporations are entitled to continue business under special-tax stamps issued to these firms and corporations without paying additional special tax. No special tax is required of them for sales made in obedience to mandates of court. (T. D. 316; March 30, 1901.)

The bonds of receivers or trustees appointed by the court are liable to tax on and after July 1, 1901, under the war-revenue act, as amended March 2, 1901. (T. D. 378; July 10, 1901.)

Records of collectors.

Changes in records as to stamp sales:

Collectors are advised that the act of March 2, 1901, imposes new rates of tax on beer, cigars, and cigarettes, allowing a discount on all sales on all tobacco and snuff stamps, and requiring changes in the records relating to the sales of stamps to meet the changes in the law. (T. D. 360; June 18, 1901.)

Record of stills:

With respect to records of stills "set up" in each district, no matter for what, if for any, purpose used, the object of record No. 115 is to secure in convenient form the location and the name of the owner. When a record is made in No. 115 of the original registry, no record need be made of subsequent registries, as "for use" and "not for use," unless there is a change either of owner or location. (T. D. 337; May 2, 1901.)

Record 39 revised:

Collectors are advised to make requisition for the revised record 39 and revised Form 45, in order that they might be utilized, commencing with the month of July, 1901, in making monthly returns in pursuance of existing regulations. (T. D. 353; June 3, 1901.)

Records as to daily sale of beer:

Records Nos. 3, 5, and 7, relating, respectively, to the daily sale of beer, cigar, and tobacco stamps, and record No. 11, relating to cigar manufacturers' accounts, have been revised. The present records, with proper changes in headings, will be used until the revised records are ready for distribution. (T. D. 366; June 22, 1901.)

Records of special tax:

Special-tax records are not among those records which the regulations contemplate may be furnished to a State court upon an order of the court. They are made under compulsion of law only with a view to collection of revenue for the United States, and it has been uniformly held that to allow copies thereof to be furnished for use against the special-tax payer in a case not arising under

Records of collectors—Continued.

Records of special tax—Continued.

the laws of the United States, and in which the Government of the United States is not interested, is contrary to public policy and not to be permitted. (T. D. 766; March 23, 1904.)

Redemption of stamps.

Amendatory acts as to redemption of stamps:

Congress passed an act to amend the act of May 12, 1900, authorizing the Commissioner of Internal Revenue to redeem or make allowance for internal-revenue stamps, approved June 30, 1902, and an act to amend sections 3362 and 3394 of the Revised Statutes of the United States relating to tobacco, approved July 1, 1902; and the same were promulgated by the Commissioner for the information of all concerned. (T. D. 544; July 8, 1902.)

Conformance to act of 1901 necessary:

Manufacturers of tobacco and snuff are confined in the procurement of discount on stamps, in the redemption of stamps, and the reduction or drawback on taxes to the methods and limitations specifically provided in the act of March 2, 1901, and such methods must be strictly pursued. (T. D. 341; May 7, 1901.)

Adhesive documentary and proprietary, or other revenue stamps, should not be included in or presented with claims for the redemption of imprinted documentary stamps. (T. D. 361; June 18, 1901.)

Documentary and proprietary must be not less than $2 in quantity:

In accordance with Circular 596, stamps that are not in the same condition as when issued will not be redeemed unless their condition is satisfactorily accounted for. Documentary and proprietary stamps can be redeemed only when presented in quantities of $2 or more face value, and no claim for the redemption of or allowance for such stamps can be allowed unless presented prior to July 1, 1904. (T. D. 704; October 1, 1903.)

Imprinted checks and drafts not returnable:

Imprinted checks and drafts can not now be returned to the owners after redemption of the stamps thereon, and such instruments now on hand must after the redemption of the stamps, be destroyed in pursuance of the act of February 26, 1902. (T. D. 692; August 27, 1903.)

Proof of ownership necessary to redemption:

When claims for the redemption of stamps are presented by any person or firm other than the one for whom the order for imprinting was issued and whose name or title does not appear upon the papers on which the stamps are imprinted, the claimant, in addition to the certificate of the collector and deputy collector aforesaid, must satisfactorily establish the fact of ownership of the stamps and furnish a certificate of sale by each owner of them from the time of their purchase from the person or firm from whom the order for imprinting was issued. (T. D. 305; March 22, 1901.)

Purchases from bank customers:

Banks or stationers may purchase imprinted stamps which they procured and sold to their customers and, as the bona fide owners thereof, present claims in their own names for the redemption of such stamps without regard to the number purchased from such customer. (T. D. 359; June 18, 1901.)

Redemption of bank claims, etc.:

In all cases where claims are made by banks or stationers for the redemption of stamps, it will be necessary, in addition to evidence now required in support of claims, for each claim to be accompanied by a certificate duly signed by the party from whom the stamps were purchased, setting forth the absolute sale

Redemption of stamps—Continued.

Redemption of bank claims, etc.—Continued.

and transfer of said stamps to the claimant; also a schedule prepared by the claimant showing, as to the stamps purchased from each customer, the name of the person from whom the stamps were purchased, the date of order upon which they were imprinted, in whose favor the order was issued, the name of the collector who issued the same, and of the contractor who imprinted the stamps, and the number of stamps in each lot purchased. (T. D. 361; June 18, 1901.)

Redemption of retail and malt liquor dealers' stamps:

The business of a retail dealer in malt liquor and that of a retail liquor dealer are entirely separate. Therefore, if a person be a retail malt-liquor dealer from the 1st of July for only a few days in that month, his special tax liability covers the entire year, and if, in the same month of July, he engage in the sale of distilled spirits his special tax liability would be that of a retail liquor dealer for the same year. The redemption of his special-tax stamp as a retail dealer in malt liquor does not obviate his paying special tax as a retail liquor dealer for the same period. (T. D. 415; September 30, 1901.)

Repeal of stamp tax on checks, etc.:

The redemption of documentary and imprinted stamps was ordered upon the repeal of the stamp tax on checks, act of March 2, 1901, and went into effect in pursuance of instructions issued March 22, 1901 (circular No. 596), relative to the redemption of documentary and proprietary stamps. (T. D. 403; August 13, 1901.)

Return of instruments to owners:

Upon application for the cancellation of imprinted checks as to the allowance of claims for redemption, the Commissioner held, after careful consideration, that, under existing law, it would be impossible to return the instruments to the owners, but the office would proceed to consider the claims for redemption, refunding to owners amounts due by reason of stamps imprinted and recommending to Congress the passage of a law authorizing the return of drafts and checks to claimants and owners. (T. D. 403; August 13, 1901.)

Refilling bottles prohibited.

The attention of collectors and revenue agents is called to the provisions of section 6, act of March 3, 1897, prohibiting persons engaged in the sale of distilled spirits from reusing a bottle for the purpose of refilling the same without removing and destroying the stamp previously fixed to such bottle, the penalty for a violation of the law being not less than one hundred dollars nor more than one thousand dollars, and imprisonment for not more than two years in the discretion of the court, together with a forfeiture of the spirits to the United States. (T. D. 696; September 19, 1905.)

Reduction of spirits in packages.

The regulations permitting reduction of spirits contained in the distiller's original package to a proof not less than 90 per cent not applicable to imported spirits, which latter may be reduced in proof on making change of package on premises of wholesale liquor dealer. (T. D. 778; April 19, 1904.)

Reduction of spirits in original packages:

The regulations permitting the reduction of distilled spirits in the original package to a proof not less than 90 per cent by the simple addition of water (Circulars 536 and 542) have no application to imported spirits produced in a foreign country, although the reduction in the original package may be made under the provisions of circular 542 in case of reimported domestic spirits. (See T. D. 21854.) (T. D. 778; April 19, 1904.)

Refunding internal-revenue stamps.

Claims for refunding amounts used in error or excess:

In all claims for the refunding of amounts paid for adhesive documentary or proprietary stamps used in error or in excess it should be clearly stated, under oath, who paid for the stamps, whether they were purchased at a discount or at the full face value, and whether the party in whose name the claim is made has been reimbursed for the stamps by any person or persons. * * * (T. D. 20875; March 16, 1899.)

Commissioner's discretionary authority:

The Attorney-General, in opinion rendered August 19, 1899, as to the power of the Commissioner to redeem unused documentary stamps, holds that "in carrying out the purposes of the war-revenue act, the Commissioner, with the approval of the Secretary of the Treasury, has authority, in his discretion, to cause an unused documentary stamp in the hands of a purchaser, to be redeemed." This power, though not expressly given, results from the great discretion conferred upon the Commissioner to make such rules and regulations as are needful for the proper enforcement of the war-revenue act. (T. D. 21560; August 31, 1899.)

Refunding receipts:

Receipts on Form 1, given to taxpayers at the time of paying for stamps, should accompany claims for refunding, or their absence accounted for satisfactorily. In claims for the refunding of amounts paid for documentary stamps used in error or in excess, the stamps must accompany the claims, or proof be furnished showing that the stamps have been destroyed. Where, owing to the denomination of the stamps used, the exact amount of them, used in excess, can not be removed from the instrument, a greater amount of stamps should be removed in the presence of a revenue officer and other stamps substituted to pay the tax. (T. D. 21705; October 25, 1899.)

Regulations prescribing the manner of canceling stamps have the force of law and must be specifically followed. (T. D. 21855; December 18, 1899.)

Refunding stamps and requisitions:

Requisitions and sales of tobacco, snuff, and beer stamps should be made in amounts sufficient for a thirty days' supply, series of 1902, beginning on and after July 1, 1902. (T. D. 529; May 26, 1902.)

Claims on Form 46:

Claims for the refund of amounts paid for stamps on hand July 1, 1902, and affixed to articles which have not been removed from the place of manufacture, or customs bonded warehouse, should be made on Form 46. (T. D. 536; June 18, 1902.)

Imprinted instruments returnable on request:

After the redemption and cancellation of revenue stamps imprinted upon checks, drafts, and other instruments, the imprinted instruments may, in pursuance of the joint Congressional resolution approved February 26, 1902, be returned upon the request, and at the expense and risk of their owners, by either freight or express. (T. D. 509; April 25, 1902.)

Refunding taxes.

Claims under amendatory act, 1901:

Claims for refunding of legacy tax paid since the passage of the amendatory act of March 2, 1901, will be considered. The act is not retroactive in its effect, and no taxes collected under the law as it existed prior to the act of March 2, 1901, can be refunded, unless the courts decide that they were illegally collected. (T. D. 336, April 30, 1901.)

Claims for the refund of taxes under section 3228, Revised Statutes, must be presented on or before March 28, 1900. (T. D. 423; October 24, 1901.)

Refunding taxes—Continued.

Refunding documentary stamps on export bills:

The act authorizing the refunding of amounts paid for stamps used on export bills of lading was approved June 27, 1902, and the act of May 12, 1900, which provided for the allowance for or the redemption of documentary and other stamps, if presented within two years after the purchase of the stamps from the Government, was amended June 30, 1902, so as to extend the allowance to any claim presented prior to July 1, 1904. Under this amendment to the act of March 12, 1902, no claim for the refunding of an amount paid for documentary stamps used on export bills of lading will be entitled to consideration unless presented prior to July 1, 1904. (T. D. 819; August 24, 1905.)

Tax on export bills under act of 1900:

Claims for refunding tax paid on export bills of lading, under the act of May 12, 1900, can not be considered, unless presented within two years after the purchase of the stamps from the Government, but recommendation has been made to Congress that the act be so amended as to provide for the allowance of such claims within two years from the date of the amendment, or after the stamps were affixed. (T. D. 452; December 27, 1901.)

Refunding stamp tax.

Authority for refunding stamps used on manifests lacking:

Claims for refunding documentary stamps used on manifests for clearances of vessels for foreign ports are rejected for the reason that the amount was legally collected, and there is no authority either in the decisions of the courts or in the acts of Congress to refund same. (T. D. 597; November 24, 1902.)

Certificate required of collector:

In refunding documentary stamp taxes, the collector will make the usual certificate required of collectors in claims for the refunding of amounts paid for documentary stamps, and forward the claims to the Commissioner of Internal Revenue, who will have them examined and disposed of as claims arising under the act of May 12, 1900, are now disposed of. (T. D. 546; July 8, 1902.)

Claims for refunding limited to two years:

Collectors are informed that the Bureau of Internal Revenue will consider claims for the refunding of amounts paid for proprietary stamps affixed to goods on hand in the place of manufacture July 1, 1902, or in the customs bonded warehouse on or after July 1, 1902, provided that the claim is presented within two years after the purchase of the stamps from the Government, and that the stamps are of the aggregate face value of $2 or more; and provided further that the stamps are removed from the articles in the presence of a revenue officer and forwarded with the claim; or, in case it is impracticable to remove the stamps, that the revenue officer certifies that he has written across the face of each stamp the words, "Claim for refunding filed." (T. D. 536; June 18, 1902.)

Registry of leaf tobacco.

Requirement as to registration:

On and after July 1, 1902, every manufacturer of cigars, manufacturer of tobacco, dealer in leaf tobacco, and peddler of tobacco is required by law (section 26, act of October 1, 1890) to register with the collector of internal revenue for the district in which such business is carried on his name, style, place of business, trade or business, and the place where such trade or business is carried on. (T. D. 505; April 17, 1902.)

Registry of cigar manufacturers:

Every manufacturer of cigars, manufacturer of tobacco, dealer in leaf tobacco, and peddler of tobacco is, however, required by law (section 26, act of October

Registry of leaf tobacco—Continued.

Registry of cigar manufacturers—Continued.

1, 1890) to register with the collector of internal revenue for the district in which such business is carried on his name, style, place of business, trade or business, and the place where such trade or business is carried on. (T. D. 505; April 17, 1902.)

Renovated butter.

Issuance of inspection certificates:

The Secretary of Agriculture, construing the act of April 24, 1904, states that inspection certificates are issued by dairy inspectors of the Department of Agriculture for all exports of renovated butter. (T. D. 841; November 7, 1904.)

Power of Commissioner to enforce regulations:

Section 3447, Revised Statutes, provides that the Commissioner may make regulations not otherwise provided for as may become necessary by reason of any alteration of law. Adding renovated butter to the list of taxable articles is an alteration in the internal-revenue law. The power given to the Commissioner is very sweeping. The regulations which have been issued in regard to renovated butter seem to be necessary for the proper enforcement of the law and prevention of fraud on the revenue. (T. D. 847; December 15, 1904.)

Regulations made by Secretary of Agriculture:

The Secretary of Agriculture, construing paragraph 22, Regulations No. 9, Supplement No. 1, regulating the branding, marking, and packing of renovated butter, points out that the rules contemplate such markings as will insure the commercial identity of the product for the benefit alike of purchasers and consumers. The permanency of the regulations is of great importance, and it is insisted that jobbers and wholesalers shall handle the product only in the original manufacturers' packages and dispose of it without breaking the packages for any purpose or in any way changing the form and markings. (T. D. 654; April 15, 1903.)

Reports of collectors.

Accounts for property seized:

Collectors are reminded, in regard to the seizure and sale of property forfeited under internal-revenue laws or distrained for unpaid taxes, that all seized property placed in their custody must be fully accounted for, and that excessive bills for expenses, due to negligence and disregard of the regulations in the care and final disposal of the same, will be disallowed. (T. D. 209; September 6, 1900.)

Confessions under duress void:

Written confessions and admissions of violations of law secured under duress by internal-revenue officers, and offers of compromise obtained by solicitation or threats, will be held by the Commissioner to be void, and officers who are instrumental or concerned in securing such confessions and offers in compromise by the means indicated will be held to have disregarded the regulations of this Office and will be dealt with accordingly. (T. D. 206; August 30, 1900.)

Delay of reports inhibited:

In view of the embarrassment caused by the lack of prompt and full reports by officers of the Bureau of Internal Revenue, when seizing taxable articles shipped, for violations of law, it is ordered that hereafter there shall be no delay on the part of collectors in making their reports on Form 117, with whatever statement of the cause of seizure is necessary, to enable the Commissioner to know the nature of the offense for which the property is held for forfeiture. (T. D. 147; June 5, 1900.)

Reports of collectors—Continued.

Distraint warrants must be reported separately:

The issuance of "omnibus" warrants of distraint is prohibited. Distraint warrants should be separate, and prompt returns should be made by deputies in every case, in pursuance of directions from collectors. (T. D. 135; May 28, 1900.)

Liabilities outstanding require notice:

When the surety on a bond is a surety company, notice should be given by mail to the local representative of the company demanding payment of the outstanding indebtedness of the principal. Collectors will understand, however, and will so advise the local representative of the bonding company, that any failure to receive notice of an outstanding liability in no way affects the legal liability of the surety on the bond under the act of August 13, 1894. (T. D. 192; August 3, 1900.)

Penalty monthly reports:

Instructions relating to collectors' reports on Form 8 are stated in Internal-Revenue Circular No. 569, appertaining to reports per month of all penalties collected on account of post-stamping of instruments. (T. D. 124; May 11, 1900.)

Reports required for each quarter:

Collectors are instructed by the Commissioner to see that the proper entries are made in book 25 with respect to all instruments presented for action under section 13, act of June 13, 1898, and that a report is made from such record for each quarter. Collectors are also advised that they are not authorized to remit the penalty in such cases, unless the instrument or document is presented for their action within twelve calendar months after the making or issuing thereof. (T. D. 10; January 8, 1900.)

Taxes reported uncollectible:

As to taxes reported as uncollectible, collectors are advised that it is their duty to use the same diligence to collect a tax after it has been abated as uncollectible, or as in suit, as before abatement. (T. D. 60; March 6, 1900.)

Violations of law to be promptly reported:

Collectors are requested to report promptly on Form 166 as soon as the violation of law is discovered, and to state, in accordance with instructions at the foot of page 2 of said form, the date of return on Form 11, if any has been made, or the list on which the tax will be reported for assessment. (T. D. 176; July 12, 1900.)

Requisitions for stamps.

New rate of tax and distribution of stamps:

Collectors are advised by the Commissioner that requisitions for and sale of beer, tobacco, and snuff stamps, denoting the new rate of tax on and after July 1, 1902, should not be made before midnight of June 3, 1902, and collectors are especially requested to so distribute said stamps to manufacturers and brewers as to meet their immediate requirements and avoid inconvenience to taxpayers, etc. (T. D. 529; May 26, 1902.)

Requisitions for thirty days' supply:

Collectors are directed by circular letter dated May 26, 1902, to immediately make up and forward their requisitions for a thirty days' supply of tobacco, snuff, and beer stamps and stamps for cigarettes weighing more than 3 pounds per thousand, series of 1902, for delivery to manufacturers and brewers on and after July 1, 1902. (T. D. 529; May 26, 1902.)

Requisitions for stamps—Continued.

Requisitions made by June 15, 1901:

Collectors are directed to make requisitions for the usual supply of beer, cigar, and small cigarette stamps of the new issue as early as June 15, for sale to brewers and manufacturers on and after July 1, and all beer, cigar, and small cigarette stamps of present issue in the hands of collectors July 1 should be returned to this Office, where the value of the same will be credited in collectors' accounts, and all such stamps in the hands of brewers and manufacturers on that date may be redeemed under existing provisions of law as stamps for which they have no use. (T. D. 354; June 3, 1901.)

Spoiled stamps:

The Commissioner is authorized, under the act of March 2, 1901, to redeem such stamps only as "have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or for which the owner may have no use, or which, through mistake, have been improperly or unnecessarily used, or where the rates or duties represented thereby have been excessive in amount, paid in error, or in any manner wrongfully collected." (T. D. 341; May 7, 1901.)

Stamps on fermented liquors:

The Commissioner directs that on and after July 1, 1901, all stamps used for denoting the tax upon fermented liquors shall be canceled by perforations to be made in the form of the name of the person, firm, or corporation by whom such liquors were made, or some suitable abbreviation thereof, or of the initial letters of the name and the date when canceled, which date may be indicated by numerals, if preferred, signifying the number of the month and the day. (T. D. 347; May 22, 1901.)

Requisitions for snuff stamps.

Requisitions and sale of stamps for snuff, denoting the new rate of tax, can not be made before midnight of June 30, 1902, and collectors are required to so distribute said stamps to manufacturers as to avoid inconvenience to taxpayers and the necessity for telegraphing to this Office for an additional supply of stamps. (T. D. 529; May 26, 1902.)

Retailing liquor—Special tax.

Boats not engaged in carrying passengers:

Collectors are instructed to refuse to issue a special-tax stamp for retailing liquors on boats that are not regularly engaged in the business of carrying passengers. This ruling conforms to the joint resolution of Congress of May 8, 1876—Compilation 1900, p. 114. (T. D. 663; May 23, 1903.)

Excursion boats and excursion trains:

Ruling 663 was not intended to prohibit the issuance of special stamps for retailing liquors on excursion boats. The Commissioner holds that excursion boats and excursion railway trains are engaged in the business of carrying passengers within the meaning of the joint resolution of Congress of May 8, 1876, on which ruling 663 is based. Although they are not regular boats or regular trains, their business is the business of carrying passengers from one place to another. (T. D. 671; June 23, 1903.)

Retailing liquor on Government reservations:

The attention of collectors is called to the ruling of the Commissioner of the General Land Office to the effect that it is unlawful for any person or association of persons to occupy or use any public lands within the boundaries of any forest reserve established under section 24 of the act of March 3, 1891, excepting for purposes of mining and prospecting for minerals, without special permit from the Secretary of the Interior; and that following the past policy of

Retailing liquor—Special tax—Continued.

Retailing liquor on Government reservations—Continued.

the Department in this regard, permit will in no case be granted for establishing or conducting a saloon, or for the sale of intoxicating liquors, upon public lands within a forest reserve. (T. D. 694; September 14, 1903.)

Retail liquor dealer.

Retail liquor dealer and wholesale orders:

A retail liquor dealer can not lawfully fill and ship an order for liquor amounting to five gallons or more even though he fill from time to time by shipping less than five gallons. A violation of this regulation will involve him in a special-tax liability as a wholesale liquor dealer. (T. D. 655; April 15, 1903.)

Sale of warehouse certificate:

If in a case where the purchase clause warehouse receipt was sold in the place of business of the purchaser, a partial payment being made at the time, and the remainder of the purchase money is paid at the home office of the seller where he holds the special-tax stamp of a wholesale liquor dealer, it is held that the sale of the packages specified is completed, being covered by the special-tax stamp held there. The seller is not involved in a special-tax liability by the fact that the receipt was delivered elsewhere to the purchaser. (T. D. 643; March 11, 1903.)

Selling liquor after selling business:

A person who purchases the business of a retail liquor dealer, leaving the latter in charge to continue the sales of liquor, is required to make sworn return and pay special tax himself as the principal and owner of the business, and to take out the special-tax stamp in his own name. The special-tax stamp of the retail liquor dealer who sold out the business to him can not be made to answer for him, even though the retail liquor dealer who has thus sold out his business is left in charge of it by the purchaser and continues to sell liquors under his special-tax stamp at the place of business thus sold out. (T. D. 813; August 1, 1904.)

Selling out business—Special-tax stamp:

Under section 3237, Revised Statutes, the special tax is paid by the retail liquor dealer for the entire year beginning July 1, and no rebate is allowed by any provision of the law on account of a discontinuance of business before the end of the year for which the special-tax stamp is issued. (T. D. 830; October 4, 1904.)

Returns—Special tax.

Brokers failure to make returns:

It is for the failure of a broker, class 2, to make the sworn return prescribed by law, and not for failure to pay the special tax, that the statute (section 3176, Rev. Stat.) imposes the 50 per cent penalty. (T. D. 315; March 28, 1901.)

Oath required to Form 11:

A person intending to engage in a business for which special tax is required to be paid must himself sign and swear to the return, Form 11. The return is not to be accepted when signed and sworn to by some other person as "agent" for the special-tax payer. (T. D. 49; February 27, 1900.)

Returns by mail:

When a return is made and placed in the United States mails, properly addressed, and postage paid, in time to reach the collector or deputy collector within the calendar month in which the liability begins penalty does not accrue. (T. D. 424; October 24, 1901.)

Returns—Special tax—Continued.

Returns of legacy tax:

1. Advancements are not subject to tax under the war-revenue act unless they are debts due the estate at the time of the testator's death.
2. Remainders vest in the remainder-men specified in the will who are living at the time of the testator's death, subject, however, to be divested by the subsequent birth of other remainder-men, or by the exercise of a power of appointment conferred by the will. (T. D. 768; March 25, 1904.)

Returns of manufacturers under oath:

Hereafter, in all cases where the regulations require that returns of manufacturers of, or wholesale dealers in, oleomargarine shall be made under oath, such returns must be signed and sworn to by the manufacturer, or wholesale dealer, if an individual, and, if a firm, by some member of the firm; and if the manufacturer or wholesale dealer be an incorporated company, then by the president, vice-president, secretary, or treasurer of the corporation, and such officer or officers must be authorized by proper act of the corporation to so sign and swear to such returns. (T. D. 264; January 11, 1901.)

Reversionary interests.

1. Reversionary interests which are vested are taxable at once. 2. Tax may be paid on reversionary interests which are not vested at the option of the executor or other person having in charge the estate. The basis for determining the tax in such cases, where the remainder will pass to issue, will be the number of such issue living. Where there is no issue, the reversionary interest will be considered a part of the life estate for the purpose of determining the legacy tax. (T. D. 383; July 20, 1901.)

Revenue-tax suits.

Suits for the recovery of revenue taxes:

Suits for the recovery of revenue taxes can be brought at any time, whether the taxes have been assessed or not, and whether they are assessable or not. This ruling is in accordance with the decision of the United States court in the case of the "Dollar Savings Bank *v.* United States." (T. D. 676; July 7, 1903.)

S.

Sake—Revenue tax.

Sake, a fermented beverage produced from rice, is regarded as a fermented liquor and subject to tax under internal-revenue laws. (T. D. 466; February 1, 1902.)

Sample packages.

Cigars sent by mail or express:

As to the distribution of cigars, as samples, through the mail or by express, attention is directed to the first paragraph of regulations No. 8, revised July 1, 1903, to the effect that a dealer in tobacco for the purpose of soliciting trade is not privileged to repack any number of cigars in an unstamped box for transmittal by mail, express, or other method of delivery to prospective customers, and no provision is made by law or regulation for free samples of cigars or cigarettes. (T. D. 731; December 18, 1903.)

The Commissioner holds that, when subdivision packages of smoking and chewing tobacco were abolished by the regulations which went into effect July 1, 1903, and an exception was made in favor of fine cut, it was not contemplated that this exemption should be construed as authorizing the putting up and distribution, as free samples, of packages of fine-cut tobacco in unstamped subdivisions. (T. D. 733; December 19, 1903.)

Sample packages—Continued.

Samples forwarded for analysis:

Collectors are advised to exercise care in forwarding samples for chemical or expert examination in the laboratory of the Commissioner's Office, owing to the frequent lack of adequate marks of identification. All samples liable to become the basis of legal proceedings should be sealed with a distinctive seal, and should be labeled or marked in such a way as to clearly identify them with the larger quantity of material from which they were taken. (T. D. 803; June 28, 1904.)

Sample packages, manufactured tobacco:

The sending out of sample cases to agents or traveling salesmen, filled with unstamped packages of manufactured tobacco, is contrary to the law and the regulations. The fact that such packages are intended for sample purposes does not exempt them from tax. (T. D. 838; October 25, 1904.)

Sales of tobacco.

Coupons in tobacco packages:

The Supreme Court of the United States, Justice Brewer delivering the opinion (October term, 1901), held, as to coupons in packages of tobacco, that it is within the power of Congress to prescribe that a package of any article which it subjects to tax, and upon which it requires the affixing of a stamp, shall contain only the article which is subject to the tax. (T. D. 525; May 21, 1902.)

Coupons—Snuff packages—Statutory regulations:

The regulations provide that a manufacturer may place within his statutory packages containing snuff small advertising cards, coupons, and certificates, which do not materially increase the weight of the contents or the size of the package, and which are intended as an advertisement of his business and which concern the manufacture and sale of his snuff and no other business. (T. D. 573; August 28, 1902.)

Leaf tobacco—Sale by farmers:

A farmer or grower of tobacco may place his tobacco in the hands of a qualified dealer in leaf tobacco, to be sold by him on commission, and such dealer must sell the tobacco only to other qualified leaf dealers or to qualified manufacturers of tobacco or cigars, or to persons who buy leaf tobacco in packages for export. (T. D. 497; April 7, 1902.)

Sales of stock—Stamp tax.

Power of stamp taxation long exercised:

The circuit court of the United States, southern district of New York, in United States *v.* George C. Thomas (January 26, 1902), held that "from an early period in the history of the national life the power has been exercised of imposing a stamp duty upon personal obligations, certificates of stock of corporations, bonds, notes, and similar securities discounted at banks," and that at a later period, "upon similar obligations, as well as upon conveyances, leases, mortgages, brokers' notes, or memoranda of sale of stock, bonds, goods, or merchandise." (T. D. 468; February 4, 1902.)

Shares taxable after issue:

Shares of stock after issue, given or surrendered to the company, are taxable as a transfer, and, when afterwards sold by the company, are taxable at the same rate. (T. D. 217; September 26, 1900.)

Search warrants.

Duty of United States commissioners:

The Attorney-General, in an opinion dated June 19, 1903, relative to United States commissioners issuing search warrants, holds that the law imposes upon

Search warrants—Continued.

Duty of United States commissioners—Continued.

United States commissioners the duty of issuing search warrants when properly applied for, although no compensation is provided therefor. Remedy in case a commissioner refuses to issue a warrant is vested in court which appoints him, under section 19 of the act of May 28, 1896 (29 Stat., 184), said refusal being brought, on petition, to the notice of the court. (T. D. 670; June 23, 1903.)

Seizure of spirits.

With regard to the seizure of spirits, the Commissioner holds that the law does not require collectors to give any notice other than by publication, but decides that, in order to obviate all grounds of complaint on this score, a copy of the first advertisement for a claimant in such cases shall be sent to the shipper, if he is known, or to his attorney, who may have been in correspondence with the collector in regard to the seizure. (T. D. 585; September 30, 1902.)

Shipments.

Shipments to foreign customers:

Where a broker, or other person, receiving orders from a foreign customer for whisky, wine, oleomargarine, or other articles for the sale of which special tax is required to be paid, buys these articles and sells them on his own account in the United States, consigning them here as the property of the foreign customer to whom they are shipped, special tax is required to be paid for such sales. (T. D. 728; December 12, 1903.)

Shipping tag—Distilled spirits:

As to a shipping tag that fails to cover up the entire stamp, but only that portion which it is important to save, attention is called to regulation 7 (p. 127), which reads as follows: "The stamps, marks, and brands required by law and regulations to be applied to casks and packages of distilled spirits are designed to bear witness to the legality of the spirits which they cover, and they must not be obscured in any manner, or covered by incasing the vessel bearing the same in another, but must at all times be in such condition as to admit of ready examination by revenue officers." The use of the tag described is denied to the shipper. (T. D. 772; April 9, 1904.)

Shipping under fictitious brand:

Section 3449, Revised Statutes, is a revenue measure designed to assist in tracing spirits removed without payment of tax. If spirits are put up under a fictitious label and shipped or transported, they are liable to seizure. A dealer is not liable to prosecution for selling such spirits by the bottle to parties who remove the spirits. (T. D. 798; June 11, 1904.)

Snuff and cigars.

Computing value of stamps:

In computing the value of stamps affixed to packages of tobacco and snuff with benefit of drawback under section 3386, Revised Statutes, the discount of 20 per cent provided by the act of March 2, 1901, must be made. (T. D. 307; March 23, 1901.)

Sales prohibited when exposed outside stamped packages:

In pursuance of the provisions of sections 3363, 3366, 3374, and 3404, United States Revised Statutes, internal-revenue officers are advised that when, "on or after November 1, 1903, manufactured tobacco, snuff, cigars, or cigarettes are found on the market exposed for sale outside of the original packages, the same will be seized by the proper collector or deputy collector and the facts

Snuff and cigars—Continued.

Sales prohibited when exposed outside stamped packages—Continued.

reported to this office and to the United States district attorney, with recommendation for such action as may be deemed requisite." (T. D. 678; July 14, 1903.)

Snuff—Tax.

Discount to manufacturers:

The act of March 2, 1901, allows a discount to manufacturers on all sales of tobacco and snuff stamps, and proper changes should be made in records relating to the sale of stamps for the payment of tax according to the law which takes effect on and after July 1, 1901. (T. D. 360; June 18, 1901.)

Discount not provided under act of 1901:

No provision has been made in the act of March 2, 1901, for the redemption of snuff stamps in the hands of manufacturers on June 30, 1901, for the purpose of securing the discount of 20 per cent provided in section 4 of the act. (T. D. 341; May 7, 1901.)

Rebate on tax-paid factory packages:

A manufacturer who has original and unbroken stamped factory packages of snuff on hand July 1, 1901, tax paid at the rate of 12 cents per pound, will be entitled to a rebate of 2.4 cents per pound; but no rebate will be allowed on goods sold after that date. (T. D. 327; April 18, 1901.)

Spirits, distilled.

Alcohol in soft beverages:

No limitation in internal-revenue laws with regard to alcoholic strength of so-called "soft" beverages. Special tax is required to be paid for the sale of any beverage containing distilled spirits, or wine, or malt liquor, unless the quantity of alcohol is too small to come within the notice of the law. (T. D. 761; March 8, 1904.)

Caution stamps:

Collectors are advised that, so long as internal-revenue officers act in good faith in cases arising under section 3316, Revised Statutes, amended, this office will not intervene. All wholesale liquor dealers and rectifiers know what object they have in view in adopting a device, especially when they style it a "caution stamp." They know how they may escape any possibility that the device used should in any wise resemble or have the general appearance of an authorized stamp. If they wish to see how near they may come to violating the law without incurring its penalties, this office will give no assistance. (T. D. 559; July 26, 1902.)

Excessive leakage:

As the question of excessive leakage depends largely on the circumstances under which the loss occurs, no fixed rule can be established in such cases. In view, however, of the allowance for loss provided in section 50, act of August 28, 1894, and the amendatory act of March 3, 1899, any loss ascertained upon a regauge of a cask or package of a capacity of 40 or more wine gallons after the expiration of sixty-four months from date of original gauge which exceeds 20 proof gallons, or any loss found by such regauge of any cask or package of a capacity of less than 40 wine gallons which exceeds 12 proof gallons, will be reported immediately to the Commissioner of Internal Revenue, together with all the facts in the case. (T. D. 534; June 10, 1902.)

Fruit and grain:

Collectors are instructed to exercise great care in segregating on said Form 22 the amounts derived from spirits distilled from fruit and spirits distilled from

Spirits, distilled—Continued.

Fruit and grain—Continued.

grain and materials other than fruit. "You are instructed to examine your retained Form 22 for July last and, in case of an erroneous return in the particular mentioned, to submit an amended abstract without delay." (T. D. 565; August 13, 1902.)

Special tax.

Alphabetical list of taxpayers:

The alphabetical list of special-tax payers is required to be kept in pursuance of Section 3240, Revised Statutes, and Record 10, said section providing that "each collector of internal revenue shall, under regulations of the Commissioner of Internal Revenue, place and keep conspicuously in his office, for public inspection, an alphabetical list of the names of all persons who shall have paid special taxes within his district, and shall state thereon the time, place, and business for which such special taxes have been paid." (T. D. 846; December 14, 1904.)

Barley brew or bock ale nontaxable:

Barley brew or bock ale, though having the appearance and flavor of a malt liquor, is rather an imitation of a malt liquor than the thing itself, and, therefore, it is held that the beverage is not among those fermented liquors enumerated in section 3339, Revised Statutes of the United States, and that therefore tax is not required thereon, nor the special tax of a dealer in malt liquor for its sale, under the internal-revenue laws of the United States. (T. D. 690; August 12, 1903.)

Bay rum from Porto Rico:

When the tax of $1.10 per gallon has been paid for the distilled spirits contained in bay rum produced in Porto Rico and brought into the United States, druggists and dealers therein are not required to pay special tax as liquor dealers for selling this bay rum as a toilet preparation or cosmetic. (T. D. 812; July 18, 1904.)

Blackberry wine—Cider from apple juice:

A manufacturer of blackberry wine does not come within the exempting provision of section 3246, Revised Statutes, unless the blackberries used by him in making the wine were grown by himself, or gathered wild by himself or by persons in his employ. There is no special tax, under the internal-revenue laws, for the manufacture or sale of cider made from the juice of apples, though fermented, if it is not changed into a compound liquor by the addition of distilled spirits or other alcoholic liquors. (T. D. 717; November 14, 1903.)

Commissions on beer:

The fact that a person receives a commission from the brewer on each case or keg of beer for which he obtains an order does not involve him in special-tax liability under the revenue laws. (T. D. 699; September 17, 1903.)

Entry of a club:

In taking out a special-tax stamp in the name of a club, the entry of the club's name merely is not sufficient. Not only should the name of the club be entered, but the name of the person conducting it and making the sworn return should be entered in record No. 10, together with the particular place at which the club is located. (T. D. 629; February 16, 1903.)

Express company's sales of liquor:

Where alcoholic liquor, shipped by express, is left on the hands of the express company, the company may, to secure its charges thereon, dispose of each

Special tax—Continued.

Express company's sales of liquor—Continued.

separate shipment at a single sale, without involving itself in special-tax liability under the internal-revenue laws; but this does not relieve from liability under local prohibitory liquor laws. (T. D. 715; November 6, 1903.)

Fermented liquor:

A person manufacturing for sale a fermented liquor, made from a substitute for malt, must qualify for special tax as a brewer. (T. D. 646; March 31, 1903.)

Form 11 for special-tax stamps, 1903:

Collectors are advised not to issue special-tax stamps for the special-tax year ending June 30, 1903, until Form 11, properly filled out, and the money for the stamps has been received; and the stamps *must be issued in consecutive order*, the dates upon the stubs so indicating. (T. D. 504; April 16, 1902.)

Institute furnishing whisky to patients:

An institute is exempt from special tax as liquor dealer, when the whisky administered to patients is combined with medicinal ingredients. (T. D. 639; March 17, 1903.)

Liability under circular 636:

Druggists, confectioners, and others, selling soda-water drinks and adding spirits or wine for flavoring, are not on that account liable to special tax as liquor dealers under the terms of circular 636. (T. D. 620; January 20, 1903.)

Light fermented malt liquor:

Special tax is required to be paid for the sale of the beverage called "rikk," a light fermented malt liquor, although its alcoholic strength is less than that of ordinary lager beer and it is called "nonintoxicating." (T. D. 804; June 29, 1904.)

Liquor sold for express charges:

The sale of liquor held by an express company to secure express charges for shipment does not involve the company in liability for special tax, under the internal-revenue laws. (T. D. 715; November 6, 1903.)

Liquors bought at foreclosure sale:

Where a person at a foreclosure sale of liquors bids for them in order to save a debt due him, and they are accordingly sold to him, he may sell these liquors (as having been received by him in payment of the debt) under the exempting provision of the statute, without subjecting himself to special tax, if he is not otherwise a dealer in liquors. (T. D. 688; July 30, 1903.)

Manufacturer of wine:

A manufacturer of wine can only sell at the place of manufacture, or at one business office, without being required to pay special tax. (T. D. 849; December 29, 1904.)

Sale of grape juice after fermentation:

Persons who buy unfermented grape juice and sell it after it has undergone fermentation are required to pay special tax as liquor dealers. They are not exempt as manufacturers of wine under section 3246, Revised Statutes. (T. D. 729; December 17, 1903.)

Section 3233, Revised Statutes—Record 10:

Record No. 10 is the register of special-tax payers in the collector's office, and this office finds no warrant of law for countenancing any deviation from the positive requirements of section 3233, Revised Statutes, that "every person engaged in any trade or business on which a special tax is imposed by law shall register with the collector of the district his name or style, place of resi-

Special tax—Continued.

Section 3233, Revised Statutes—Record 10—Continued.

dence, trade or business, and the place where such trade or business is to be carried on," and "in case of a firm or company, the names of the several persons constituting the same, and their places of residence, shall be so registered." (T. D. 821; August 30, 1904.)

Special tax for prior years:

When special taxes are paid for prior years, stamps of the current year must be issued therefor, and not a receipt on Form 1. When such taxes have been assessed on lists the duplicate charge can be removed by claim for release. (T. D. 767; March 24, 1904.)

Circular No. 152 (Int. Rev. No. 254) issued by Commissioner, setting forth the amount of tax and penalty to be reported for assessment as to each class of special taxes for any given number of months. (T. D. 244; November 13, 1900.)

Special-tax stamps for year 1905:

Collectors are instructed to make out and transmit to the Bureau of Internal Revenue their requisitions on Form 100 (revised 1902) for special-tax stamps for the special-tax year, commencing July 1, 1904, and ending June 30, 1905; and, in making orders, they should base their estimates of quantity upon the number of each kind issued during the first three months of the current year. (T. D. 777; April 16, 1904.)

Special-tax stamps for year ending June 30, 1904:

Collectors are instructed not to issue special-tax stamps for the special-tax year ending June 30, 1904, until Form 11, properly filled out, and the money for the stamps has been received; and the stamps *must be issued in consecutive order*, the dates upon the stubs so indicating. (T. D. 656; April 16, 1903.)

Spirits, withdrawal:

Spirits not branded "alcohol" under section 3287, Revised Statutes, must not be reported as "alcohol" nor withdrawn from bond tax free under section 3297, Revised Statutes. (T. D. 594; November 7, 1902.)

Storage-house tax:

Where orders for whisky are received at a place of business where the requisite special-tax stamps are held, and they are duly accepted there and those giving the orders are so notified, and invoices are transmitted to them from that place, the subsequent actual delivery to them of the whisky from a place of storage elsewhere does not necessitate the payment of special tax at such storage house. (T. D. 737; January 5, 1904.)

Whisky bought in bond:

Where a distiller sells to another his distillery and all his whisky in bond, the purchaser can not sell the packages of whisky without subjecting himself to special tax as a wholesale liquor dealer. (T. D. 664; May 13, 1903.)

Special-taxpayers' returns.

Criminal prosecution for delay:

Every special-tax payer making sworn return, Form 11, within the calendar month when his liability began, thereby escaping 50 per cent penalty, must pay the tax not later than the last day of that month. If he postpones payment to a later period, he becomes liable to criminal prosecution, and should be reported to the United States district attorney accordingly. (T. D. 20230; October 19, 1898.)

Special-taxpayers' returns—Continued.

Failure to make return:

Section 31, act of June 13, 1898, provides that "all administrative, special, or stamp provisions of law, including the laws in relation to the assessment of taxes, not heretofore specifically repealed, are hereby made applicable to this act." Collectors should proceed as provided in section 3176, Revised Statutes, as amended, in case of neglect or refusal to make return, or in case of false or fraudulent returns. (T. D. 19748; July 22, 1898.)

Fifty per cent penalty:

Where parties whose liability to special tax accrued under the act of June 13, 1898, failed through ignorance of the requirements of the law and regulations to make a sworn return, and in consequence were required to pay the 50 per cent penalty, such parties may make claims on Form 46 for the refunding of the penalties paid. (T. D. 20030; September 10, 1898.)

Fifty per cent penalty—Assessment:

The circular letter dated September 3, 1898, directing collectors to report for assessment without the 50 per cent penalty those cases arising under the war-revenue act in which returns had not been made by taxpayers within the time prescribed, applies only to cases in which the taxpayers had already (prior to the issuance of that letter) failed to make sworn return before the expiration of the calendar month in which their liability began. Cases of such failure occurring in the month of September, 1898, or thereafter, must be reported for assessment of the tax due and 50 per cent additional. (T. D. 20120; September 30, 1898.)

Negligence forfeits right to time extension:

The extension of time in which special-tax payers are allowed to make returns is not to be granted to such of them as have allowed the entire month of September to pass without making their returns. In all such cases the 50 per cent penalty must be exacted. (T. D. 20197; October 14, 1898.)

Return intrusted to attorney:

If a special-tax payer intrusts his return to an attorney for delivery to the collector instead of delivering it himself, he does so at his own risk; and if, by reason of sickness or absence of the attorney, the return is not within the hands of the collector within the calendar month in which the liability began, a 50 per cent penalty is incurred. (T. D. 691; August 21, 1903.)

The 50 per cent penalty:

The 50 per cent penalty in case of special-tax payers who had neither notice nor information of the requirement that they should make a sworn return to the collector as to their special-tax liability under the war-revenue act not to be assessed. (T. D. 20001; September 3, 1898.)

Spirits bottled in bond.

Cases of whisky bottled in bond should be entered on book, Form 52, by wholesale liquor dealers when received or sent out by them, in pursuance of section 3318, Revised Statutes, as amended. (T. D. 808; July 12, 1904.)

Spoiled beer—Stamps on packages.

A refund of the cost of stamps affixed to packages of oleomargarine which have become unmarketable is only authorized in cases where the stamped package remains in the factory and has never been on the market or outside of the factory premises. A like refund would be made in the case of a stamped package or packages of beer spoiled before leaving the brewery. In each case, however, the proof that the respective packages have never been off the premises where produced is required to be of the most positive character. (T. D. 799; June 14, 1904.)

Stamp tax.

Bills of lading for exportation:

The Commissioner, in harmony with the Attorney-General, holds that bills of lading issued by a carrier for transportation of goods from interior points in the United States to a foreign country requires a 1-cent stamp to cover the domestic transportation, and the same rule governs in the case of bills of lading issued for goods shipped by railroad from places in the United States to places in Canada or Mexico. (T. D. 524; May 17, 1902.)

Bonds and guaranties of public contractors:

Bonds and guaranties of contractors for public work under Schedule A, act of June 13, 1898, as amended by the act of March 2, 1901, are not required to be stamped on and after July 1, 1901. (T. D. 356; June 5, 1901.)

Stamp tax is not required of State, county, or municipal officers on bonds conditioned for the due execution or performance of the duties of any office or position, or to account for money received by virtue thereof. (T. D. 304; March 31, 1901.)

Stamp tax is not required on the bonds of brewers, cigar and tobacco manufacturers, and distillers, delivered on and after July 1, 1901. (T. D. 384; July 22, 1901.)

Bonds of distillers, brewers, manufacturers:

Stamp tax is not imposed on bonds of distillers, brewers, manufacturers of tobacco, snuff, and cigars, and peddlers of tobacco; on producers of wine, on bonds for transportation and exportation of distilled spirits, on withdrawal of alcohol for scientific purposes, withdrawal of distilled spirits by manufacturers of cordials, for the establishment of warehouses, etc.; but the official bonds of all internal-revenue officers require a 50-cent stamp. (T. D. 396; August 6, 1901.)

It is held that where a retail dealer fills a bottle from a barrel for his bar stock, from which he sells wine by the glass, he is not required to put a stamp on the bottle. (T. D. 443; December 7, 1901.)

Stamp tax is required on railroad freight receipts. (T. D. 380; July 13, 1901.)

Plasters, put up in the style of patent medicines and advertised as remedies, are liable to stamp tax. (T. D. 268; January 21, 1901.)

Bonds of indemnification taxable:

Under paragraph 7, Schedule A, act of June 13, 1898, a bond for indemnifying any person or persons, firm or corporation, and bonds for the due execution or performance of the duties of any office or position, and to account for money received, are subject to stamp tax. (T. D. 371; June 25, 1901.)

Checks drawn by sheriffs:

Bank checks drawn by sheriffs in the disbursement of private funds under section 17, war-revenue law, are subject to stamp tax. (T. D. 283; February 15, 1901.)

Delivery of stock:

Stamp tax is held to be due, under the provisions of Schedule A of the war-revenue acts of June 13, 1898, and March 2, 1901, on memoranda used in connection with the delivery of stock pledged as security for the future payment of money. (T. D. 501; April 14, 1902.)

Documentary stamp tax under repealed law:

Collectors must satisfy themselves that instruments are not to be validated under section 13 of the war-revenue act before reporting the tax for assessment. Form 1 the only evidence of payment to be given when taxes are assessed, and stamps to be issued only when instrument is validated. Treasury decision 554 modified. (T. D. 644; March 25, 1903.)

Stamp tax—Continued.

Goods in bonded warehouse, July 1, 1902:

No allowance can be made for proprietary stamps on goods in bonded warehouses or in places of manufacture July 1, 1902, unless the stamps are removed from the packages and accompany the claim, or the deputy collector of internal revenue certifies that he has seen each stamp and has indorsed upon the face of each of them the words, "Claim for refunding filed." (T. D. 522; May 16, 1902.)

Identity of paragraphs in acts of 1901 and 1862:

The language of paragraph 7, Schedule A, as found in the act of March 2, 1901, is identical with that of Schedule B, act of July 1, 1862, imposing stamp tax on bonds, with the addition of the word "position." As showing that the executive construction of this part of the act of July 1, 1862, was in harmony with the intention of Congress, it appears that the act of June 30, 1864, which reenacted almost all the provisions of the act of July 1, 1862, with considerable enlargement as to the subjects and rates of taxation, in reenacting the provision, divided it into two clauses, so that the bonds of indemnity formed one item and bonds for the due performance of the duties of an office formed another item, the language used being almost the same, and in both cases the rate of tax was increased. (T. D. 394; August 2, 1901.)

Stamps—Redemption.

Act of May 12, 1900:

The act of May 12, 1900, approved June 30, 1900, was so amended as to provide that "no claim for the redemption of or allowance for stamps shall be allowed unless presented within two years after the purchase of said stamps from the Government, excepting documentary and proprietary stamps issued under the act of June 13, 1898, which stamps may be redeemed as hereinbefore authorized upon presentation prior to the first day of July, 1904." (T. D. 544; July 8, 1902.)

Adhesive documentary and proprietary—Cancellation:

Existing regulations are so amended as to require that upon each adhesive documentary or proprietary stamp used or affixed after January 1, 1899, there shall, in addition to the initials of the person using the same and the year in which used, also appear the month and day of the month when such stamp was used or affixed. The month may be expressed by numerals. (T. D. 20462; December 23, 1898.)

Requisitions required on Form 100:

Collectors were directed, in circular No. 568, revised, that immediately upon the reception of said circular, they should make out and transmit to the Bureau of Internal Revenue requisitions on Form 100 (revised, 1902) for special-tax stamps for the special-tax year, commencing July 1, 1902, and ending June 30, 1903. (T. D. 504; April 16, 1902.)

State bank notes.

State-prison manufacture of tobacco:

A State prison, or other State institution, is authorized to manufacture tobacco or cigars for free distribution among its inmates without qualifying as manufacturer of tobacco or manufacturer of cigars, and without payment of tax. Dealers in leaf tobacco authorized to sell to such institutions without restriction. (T. D. 736; January 4, 1904.)

Tax on circulation:

Where negotiable and transferable notes signed by the officers of a State bank go into circulation, in lieu of the money or currency of the United States, a tax of 10 per cent on such circulation is required to be paid. (T. D. 784; April 28, 1905.)

Statutory construction.

Construction of the words "deed," "grant," "sale," "gift:"

Construction of the words "transferred by deed, grant, bargain, sale, or gift, made or intended to take effect in possession or enjoyment after the death of the grantor or bargainer," as found in section 29 of the war-revenue act. Under what circumstances a gift made before death of testator is subject to tax. (T. D. 470; February 6, 1902.)

Legacy interests under act of 1902:

Legacy interests that are not vested prior to June 27, 1902, are not subject to tax under section 3, act of that date, which provides that "no tax shall hereafter be assessed or imposed under said act, approved June 13, 1898, upon or in respect of any contingent beneficial interest which shall not become absolutely vested in possession or enjoyment prior to said July 1, 1902." (T. D. 570; August 27, 1902.)

Statutory packages:

It is held that a statutory package of tobacco, snuff, cigars, or cigarettes means a package which contains only that article upon which the tax has been paid, and no other substance or thing, and that the inclusion of such article means the exclusion of all foreign articles and articles concerning other business. (T. D. 556; July 18, 1902.)

Suits pending against estates:

Where suits are pending against estates, which prevent executors from ascertaining on what amount the tax is levied, executors should file with the collector the return filled out according to the provisions of the will and appraisement. After assessment, request may be made that the collection of the tax be stayed pending decision by the court. (T. D. 523; May 17, 1902.)

Stills—Special tax.

Requirement as to registration:

Collectors are instructed that section 3258, Revised Statutes, requires that every person having in his possession or custody, or under his control, any still or distilling apparatus, set up, shall register the same in duplicate form with the collector of the district. (T. D. 193; August 4, 1900.)

Stills for pharmaceutical purposes not liable:

The manufacturer of a still that is to be used only for pharmaceutical purposes, or for distillation of volatile oils, is not required to pay special tax thereon, provided he furnish to the collector evidence under oath setting forth the purpose for which the still is to be used. (T. D. 5; January 5, 1900.)

A still made for use in the manufacture of vinegar comes under the ruling as to stills not used in the distillation of the spirits defined by the internal-revenue laws, and special tax is not required to be paid thereon. Ruling 20878 revoked. (T. D. 11; January 8, 1900.)

Stills not intended for the production of spirits:

The statutory provision imposing special tax on stills is held not to apply to a still that is shown not to be intended for the production of the spirits defined by the internal-revenue laws. (T. D. 64; March 8, 1900.)

Stocks. (See also Decisions 19700, 19710, 19998, 20091, 20093, 20157.)

Intention of law as to certificates:

The intention of the law is to tax the original issue of certificates of stock, and to tax every change of ownership, whether by transfer or by sale. (T. D. 19888; August 12, 1898.)

Transfers of stock from guardian to ward are subject to taxation. (T. D. 20070; September 19, 1898.)

Stocks—Continued.

"Original issue" construed:

Construing Schedule A, act of June 13, 1898, imposing stamp tax on each "original issue," whether on organization or reorganization, of certificates of stock, it is held that the words "original issue" are limited and controlled by the words "whether on organization or reorganization." Therefore the only certificates of stock on which the tax of 5 cents on each $100 of face value or fraction thereof is imposed are those issued on or after July 1, 1898, on the organization or reorganization of the company. In cases of agreements to sell stock, or where the transfer is by delivery of the certificate assigned in blank, the memorandum thereof is liable to tax. (T. D. 19607;June 29, 1898.)

Tax on shares of stock:

Tax on shares of stock pledged as collateral to secure the future payment of money. A delivery of stock as collateral security for the future payment of money is taxable at the rate of 2 cents for each $100, or fractional part thereof, provided such delivery is accompanied by any paper, or agreement, or memorandum, or other evidence of transfer as required by statute. A so-called collateral note, in which such stock should be described with reasonable certainty, would be such evidence. (T. D. 417; October 4, 1901.)

Stocks of corporations.

Certificates and powers of attorney:

When a certificate of stock is presented for transfer and the power of attorney on the back thereof is dated prior to July 1, 1898, although the name of the transferee is not filled in until after that date, both the power of attorney and the certificate are required to be stamped. (T. D. 21277; June 14, 1899.)

Certificates of foreign corporation:

Certificates of stock of a foreign corporation when sold or delivered within the United States are liable to the same tax as certificates of stock of any domestic corporation. (T. D. 20793; March 6, 1899.)

Stock, preferred, issued in lieu of common stock:

Where preferred stock of a corporation is issued in lieu of common stock, there being no change of ownership, there are no stamps required. In case of change of ownership a tax of 2 cents per $100, or fraction thereof, is imposed.

Taxable transfers:

All transfers taxable, but if transfer is made pursuant to a sale, where the memorandum of sale has been duly stamped, no extra tax accrues. All transfers of stock in pursuance of gifts, bequests, successions, or conveyances by trustees taxable. (T. D. 21315; June 27, 1899.)

Transfers of stock:

Where brokers, acting in behalf of their principals, buy stock and receive stamped bills of sale in their own names, they may transfer such stock on the books of the corporation to the names of their principals without additional stamp tax. (T. D. 20727; February 21, 1899.)

Storekeepers, etc.

Compensation for services:

The compensation allowed gaugers, storekeepers, and storekeeper and gaugers must not exceed $3 per day, or $500 for any fiscal year. (T. D. 447; December 12, 1901.)

Reports of operations required daily:

Storekeepers and storekeeper and gaugers in charge of Government records at distilleries are required to make complete daily reports of their operations. (T. D. 438; December 3, 1901.)

Storekeepers, etc.—Continued.

Storekespers and storekeeper-gaugers' assignment:

Collectors are forbidden to designate persons to act as storekeepers and storekeeper-gaugers, where there is no existing assignment by the Commissioner of Internal Revenue. (T. D. 306; March 22, 1901.)

Storekeepers' monthly, Form 87:

As soon as all of the reports on Form 87 for a given district for the fiscal year ending June 30, 1905, are received by the collector, these reports will be removed from their respective binders, arranged according to the serial numbers of the distillery warehouses, all reports for one distillery being placed together and arranged in regular monthly order from July, 1904, to June, 1905, inclusive, and bound in volumes not too bulky for convenient handling or reference for any purpose. (T. D. 793; May 31, 1904.)

Sugar taxation.

Sugar-refining companies' returns:

Sugar-refining companies, refining sugar in one collection district and having their principal (home) offices in another collection district, should make returns of their gross receipts in each of such districts, respectively. (T. D. 20201; October 17, 1898.

Sugar-refining tax, Act of 1898:

The provisions of section 27, act of June 13, 1898, imposing a special tax on the annual receipts, in excess of $250,000, from the business of refining sugar, do not apply to beet-sugar factories where sugar is made directly from beets, without refining, except in the process of manufacture. (T. D. 19831; August 4, 1898.)

Supplemental tobacco regulations.

Extent of sales as affecting tax:

Dealer in cigars liable to special tax when sales for preceding fiscal year exceed 2,500,000 cigars. Any person commencing business as dealer in tobacco or cigars July 1, 1898, or subsequently during the year, required to pay special tax whenever sales exceed 50,000 pounds; the special tax will be computed from the first day of the month in which he commenced to engage in the business. (T. D. 19600; June 28, 1898.)

New rates of tax on cigars and cigarettes:

The act of March 2, 1901, so far as it imposes new rates of tax on cigars and cigarettes and provides for discount on sales of stamps for payment of tax on tobacco and snuff, and for drawback or rebate of taxes on tobacco, snuff, and cigars held by manufacturers and dealers, takes effect on the 1st day of July, 1901, as provided by section 15 of said act. (T. D. 307; March 23, 1901.)

Sureties on cigar manufacturer's bond:

In cases where cigar manufacturers desire to voluntarily file a new bond for reasons satisfactory to themselves, such bonds, if approved by the collector, should be accepted, and the manufacturer's accounts closed under the old bond. The responsibility for the transactions of the manufacturer will then be assumed by the new bondsmen. The same rule holds good in cases where new bonds are demanded by the collector or by instructions of the Commissioner of Internal Revenue. (T. D. 740; January 9, 1904.)

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Tax recoveries.

Internal-revenue circular, No. 567, instructs collectors as to the course to be taken to recover taxes due, but unassessable (without waiver) because of the fifteen months' limitation. (T. D. 111; April 25, 1900.)

Tax recoveries—Continued.

Attorneys duly registered in the Treasury Department, and filing powers of attorney, will be recognized in the prosecution of refunding claims. (T. D. 159; June 14, 1900.)

Tax-paid tobacco and snuff.

The regulations, No. 8, page 32, anticipate the reworking of unsalable manufactured tobacco or snuff returned to the factory. It is immaterial that the unsalable tax-paid tobacco was the product of another factory, but the stamps affixed to the packages must be destroyed immediately upon receipt of the tobacco at the factory, and the tobacco must be removed from the packages at once and proper charges made therefor as tobacco in process of manufacture received at the factory. (T. D. 636; March 12, 1903.)

Taxing sheriffs—Not liable on levies and sales.

A sheriff or other officer who levies upon and sells the oleomargarine belonging to the stock of goods of a retail dealer in oleomargarine is not required to pay special tax therefor, inasmuch as he is acting in his official character, in the discharge of lawful duties. (T. D. 730; December 18, 1903.)

Telegraphic messages.

Dispatches of diplomatic officers:

Telegrams sent by foreign diplomatic officers residing in this country are exempt from stamp tax, except where such officers engage in commerce or trade. (T. D. 20060; September 15, 1898.)

Telegraph messages of associated steamship lines, or fast freight lines operating over railroads, are not entitled to exemption from stamp tax under section 18, act of June 13, 1898. (T. D. 20066; September 17, 1898.)

Exemptions of official telegrams:

The exemption from stamp tax of telegraphic messages of an official character, under the war-revenue act, is based upon the theory that the public has a direct interest in untrammeled communication between railroad officials engaged in practical railroad operations. This ruling does not include outside organizations, though connected with or subsidiary to a group of railroad companies. (T. D. 20158; October 8, 1898.)

Exemptions under section 18, war-revenue act:

All messages of railroad companies concerning "the affairs and service of the company," and all such messages by and to connecting lines in respect to the joint and mutual business of each, are exempt from stamp tax under proviso 2, section 18, act of June 13, 1898, but the exemption does not include messages to a connecting line in relation to the business of one line only. (T. D. 19794; July 28, 1898.)

Money-order messages:

Telegraphic messages transmitting money orders, express money orders, and telegraphic orders transferring money from a bank are, if domestic orders, alike liable to a tax of 2 cents, in addition to the tax on the telegram or dispatch itself. (T. D. 19795; July 29, 1898.)

Official messages exempt from tax:

Telegraphic messages sent by State officers in the discharge of official duties are exempt from stamp tax. (T. D. 19704; July 16, 1898.)

Telegraphic and telephone messages.

Decision of the United States circuit court, ninth circuit, northern district of California, in the case of J. Waldere Kirk *v.* The Western Union Telegraph Company. It is the duty of the maker and signer of the telegram to affix and cancel the stamp. (T. D. 20602; January 20, 1899.)

Telegraphic and telephone messages—Continued.

The person, firm, or corporation starting telephone messages or conversations, should make tax return on Form 424. (T. D. 20983; April 6, 1899.)

Telephone companies may include in their monthly returns, filed in the collection district in which they are located, messages transmitted over their lines in other districts. (T. D. 20267; October 29, 1898.)

Stamping telegrams and sleeping-car tickets.

Collectors and revenue agents are advised that hereafter, under the war-revenue act, in making examinations of the files of telegraph companies and sleeping-car companies, they ascertain if the law has been complied with with reference to stamping telegrams and sleeping-car tickets, and that such examination should be restricted to simply ascertaining if the documents referred to have been properly stamped. (T. D. 19791; July 28, 1898.)

Sworn statements of telephone companies.

Returns (Form 424) of messages or conversations by various branches of a telephone company may be included in the monthly returns rendered to the collector of the district in which the principal office of such company is located. (T. D. 20291; November 2, 1898.)

Telegrams on official business.

Under the act of June 13, 1898, last proviso of section 18, messages dispatched by officers and employees of the Government on official business are exempt from stamp tax, but the telegraph should be used in cases only of urgent necessity, where mail facilities do not furnish sufficient dispatch. (T. D. 19649; July 7, 1898.)

Theaters—Special tax. (See also Exhibitions and Shows.)

Where theaters are closed during July and August and opened in the month of September, continuing to the 1st day of July following, the special tax is reckoned from the 1st day of September. (T. D. 19750; July 22, 1898.)

Census returns and special tax:

In ascertaining and collecting the special tax imposed upon proprietors of theaters, etc., in cities having more than 25,000 population, under paragraph 6, section 2, act of June 13, 1898, the census begun June 1, 1900, is not to be taken as the last preceding census with reference to the special-tax year beginning July 1, 1900. (T. D. 140; May 31, 1900.)

Proprietors of theaters and opera houses in cities whose population as shown by the former census was 25,000 or less are not to be called on to pay special tax for the current year because of newspaper announcements that the recent census shows a population for these cities of more than 25,000. (T. D. 234; October 23, 1900.)

The proprietor of a theater building or opera house in a city of less than 25,000 population is not required to pay any special tax therefor. Each company playing therein must pay the special tax and take out its own stamp. (T. D. 260; December 31, 1900.)

Lessee in town of less than 25,000 people:

A special-tax stamp taken out by the lessees of a theater can not, upon their transferring their lease to other persons, be transferred and made to answer for the latter persons in conducting the theater. (T. D. 20396; December 6, 1898.)

The lessee of an opera house in a small town, having less than 25,000 inhabitants, is not liable to special tax under paragraph 6, section 2, act of June 13, 1898. (T. D. 19939; August 23, 1898.)

Theaters—Special tax—Continued.

Paragraph 7, section 2, act of 1898:

The "theatrical performances" contemplated by paragraph 7, section 2, act of June 13, 1898, are only those which are given in connection with a circus. A theatrical company, therefore, merely playing dramas in towns of 25,000 inhabitants (as shown by last census) or less, or in buildings whose proprietors do not hold the $100 special-tax stamp, is required to pay special tax under paragraph 8, namely, $10 for each State for the special-tax year. (T. D. 19799; July 30, 1898.)

Special-tax stamps for different States:

While it is not permissible for any collector to issue "at one time and place" special-tax stamps to the proprietor of a theatrical company for a number of different States and Territories, yet, as before commencement of his season, the proprietor has already booked his company to play in various States, there is nothing in the law to prevent him from sending in advance to the collector of the district in any particular State a return Form 11, duly filled up and signed, setting forth the particular month and date when it is to appear, and upon payment of the special tax from the first day of such month to the 1st day of July following, the collector may issue to him the necessary stamp. (T. D. 19828; August 4, 1898.)

Summer theaters:

A summer theater, conducted outside a city's corporate limits and embracing operatic, dramatic, and vaudeville performances, the price of admission being "nominal," is required to pay tax under paragraph 8, section 2, act of June 13, 1898. (T. D. 19891; August 13, 1898.)

Tax under section 8, war-revenue act:

The proprietors of a theater, in a city of more than 25.000 population, for admission to which entrance money is not received, but where vaudeville performances are given, for witnessing which the persons present "are expected to order refreshments," must be regarded as giving a public exhibition for money, for which they are required to pay special tax of $10, under the eighth paragraph of section 2, act of June 13, 1898. It is not a theater for which the special tax of $100 is required to be paid under the sixth paragraph of that section. (T. D. 132; May 23, 1900.)

Tobacco tax.

Cancellation of manufacturers' bonds:

There is no statute providing for the cancellation of the bonds of tobacco manufacturers nor for discharging the liability of the surety. The bonds are to be kept on file in the collector's office, and should any default be thereafter discovered they are held liable. (T. D. 648; April 4, 1903.)

Inventories of stock:

Sections 3358 and 3390, Revised Statutes, require manufacturers of tobacco and manufacturers of cigars, respectively, to make, on the 1st day of January, each year, an inventory of their stock of tobacco material and manufactured products, together with the unattached stamps held or owned by them. The stocks inventoried shall be examined and each inventory verified by a deputy not later than the 20th day of January. (T. D. 726; December 9, 1903.)

Tobacco tax—Cigars and snuff. (See also Decision 19744.)

Advertisement of whisky unlawful on cigar boxes:

Merchants can not lawfully advertise their brands of whisky, nor other articles, on cigar boxes. (T. D. 233; October 20, 1900.)

Tobacco tax—Cigars and snuff—Continued.

Auction sales of tobacco:

Auction sales of tobacco in warehouses, or at "tobacco breaks," subject to tax same as upon sales of "any products or merchandise at any exchange or board of trade or other similar place." (T. D. 19972; August 29, 1898.)

Where the farmer or producer of tobacco brings his product to market and sells it in his own name through an auctioneer, the sales will come within the scope of a sale made at an auction house and not through an exchange, or board of trade, or other like place, and stamp tax is not required. (T. D. 20236; October 24, 1898.)

Caution notices:

The caution-notice label may be printed upon pasteboard, paper, enameled tin, or other metal, or paper packages, approved as substitutes for wooden boxes for packing cigars. The printing may be done before the packages are delivered to the cigar manufacturer. A cigar-box manufacturer may affix caution-notice labels on cigar boxes before delivery to a cigar manufacturer. If a manufacturer of cigars should fail to affix or cause to be affixed the proper label on packages containing cigars removed from the factory, he would incur liability to a fine imposed by the statute for such neglect. Cigar packages bearing caution-notice labels and brands of one factory found on the premises of another factory are subject to forfeiture. (T. D. 97; April 13, 1900.)

The time set for enforcing the provisions of section 10, act of July 24, 1897, governing the seizure of tobacco packages, containing prohibited articles, is extended to June 1, 1900. (T. D. 99; April 16, 1900.)

Rulings regulating the enforcement of the provisions of last paragraph of section 10, act of July 24, 1897, as to seizure of packages of tobacco containing prohibited articles.—Amended by decision No. 185. (T. D. 133; May 24, 1900.)

The caution notice, the number of the manufactory, and the district and State may be printed upon enameled tin or pasteboard packages intended for packing cigars. The substitution by a manufacturer of cigars of a different number, and a different district and State for his own registered number and district and State, would be in violation of section 3393, Revised Statutes, and all cigars found at his factory put up in packages bearing caution-notice labels, marks, or brands different from those required for his factory, would be subject to forfeiture under section 3455, Revised Statutes. (T. D. 96; April 13, 1900.)

Cigar manufacturers and cigar cuttings:

Dealers in leaf tobacco who improperly qualify as manufacturers of cigars for the purpose of dealing in cigar cuttings, and who made no cigars last year, are not liable to special tax as manufacturers of cigars, but such persons will be required to close their business as cigar manufacturers and may qualify as manufacturers of tobacco. (T. D. 19801; August 1, 1898.)

Computation of tax annually:

Persons engaged in business as manufacturers of tobacco or cigars, or dealers in leaf tobacco, during the entire fiscal year ending June 30, 1899, and continuing business on and after July 1, are required to pay special tax computed on the basis of their annual sales for present fiscal year. Persons not engaged in business during the entire preceding fiscal year, but who continue or commence business on or after July 1, may pay either the minimum or the maximum rate of tax. If the aggregate monthly sales of persons paying the minimum rate at any time during the year exceed the limit for which they first paid special tax, they should make a new return at the higher rate from the 1st day of July or from the first day of the month in which they com-

Tobacco tax—Cigars and snuff—Continued.

Computation of tax annually—Continued.

menced business. Persons who at first pay the higher rate, and have paid an amount in excess of their actual liability, will be permitted to make a claim for the amount so paid in excess at the close of the year. (T. D. 21276; June 14, 1899.)

Cigar leaf tobacco in the custody of the Customs Service is not subject to entry on Book 73, and monthly return, Form 72, kept by cigar manufacturers, who must only enter on these records leaf tobacco actually received at the factory.—Imported leaf tobacco, not actually received by the manufacturer at his cigar factory, improperly entered on record Book 73, and monthly return, Form 72, must be stricken from these records and eliminated from the accounts. (T. D. 21449; July 25, 1899.)

Dealers having several warehouses:

Where a dealer in leaf tobacco has several warehouses in which he temporarily stores his tobacco, and from which he afterwards reships the tobacco to himself at another warehouse, from which he sells the tobacco, he would only be required to pay special tax for the place where he last receives and sells the tobacco. (T. D. 20638; January 26, 1889.)

Dealers in leaf tobacco:

Dealers in leaf tobacco and other persons who have qualified as manufacturers of tobacco for the purpose of dealing in refuse scraps, cuttings, clippings, and sweepings of tobacco have the right as manufacturers to cut, grind, assort, size, clean, and otherwise reduce their leaf tobacco and tobacco cuttings, scraps, etc., preparatory to use as material in the manufacture of cigars, smoking tobacco, or other kind of manufactured tobacco; but if their product is a merchantable manufactured tobacco, cut or granulated smoking or chewing tobacco, the same must be properly packed, labeled, branded, and stamped before removal from the place of manufacture. (T. D. 20546; January 13, 1899.)

Dealers in scraps, cuttings, clippings, etc.:

Persons who have qualified as manufacturers of tobacco for the sole purpose of handling and dealing in stems, refuse scraps, cuttings, clippings, and sweeping of tobacco are required to register and pay the minimum rate of special tax, $6, imposed on manufacturers of tobacco. (T. D. 19844; August 9, 1898.)

Farmers' privileges under existing law:

Under existing law the farmer or grower of tobacco has the right to sell tobacco of his own growth and raising to any person and in any quantity, provided its condition has not been changed in any manner. This is a personal privilege and can not be delegated by him to another person. The farmer can not employ another person to travel from place to place to sell and deliver tobacco, nor has he the right to place the tobacco in the hands of another person to be sold for him, but he may place it in the hands of a qualified dealer in leaf tobacco to be sold on commission to other qualified dealers, or to manufacturers of tobacco or cigars, or to persons who buy leaf tobacco in packages for export. (T. D. 20482; January 3, 1899.)

Farmers' sales of their own growth:

Farmers and growers of tobacco are permitted to sell leaf tobacco of their own growth and raising, either in the hogshead, case, or bale, or loose in the hand, without restriction, but are not permitted to stem, twist, roll, plait, sweeten, cut, or grind, or otherwise reduce the tobacco from its natural condition and sell the same to consumers. (T. D. 19877; August 10, 1898.)

Tobacco tax—Cigars and snuff—Continued.

Farmers' sales of their own growth—Continued.

A person who confines his business strictly to buying leaf tobacco and shipping it to foreign countries, and there selling it, is not required to pay special tax under the internal-revenue laws as a dealer in leaf tobacco on account of such business. (T. D. 28; January 30, 1900.)

Forfeiture under section 3400, Revised Statutes:

Opinion of the United States district court of the eastern judicial district of Pennsylvania, defining the operation of the internal-revenue laws as affecting forfeitures for violation of section 3400, Revised Statutes, in cases of property belonging to innocent parties used for fraudulent purposes. Alleged ignorance of the law does not excuse from its penalties. (T. D. 54; March 1, 1900.)

Liability to special tax:

The liability of a manufacturer of cigars to a special tax is predicated upon the aggregate annual sales of the preceding fiscal year, and special tax is not to be computed on the basis of his sales for a fractional part of the year. (T. D. 21258; June 13, 1899.)

Losses by theft:

Manufacturers claiming loss of cigars by theft are required to file satisfactory evidence showing that the cigars were actually stolen. (T. D. 20586; January 18, 1899.)

Manufacturer carrying surplus stock:

A manufacturer purchasing large quantities of leaf tobacco, exceeding the demands of his factory, for the purpose of reselling his surplus to other manufacturers, must be regarded as engaged in and carrying on the business of a dealer in leaf tobacco, and will be required to make return and pay special tax as dealer in leaf tobacco at some place not connected with the factory. (T. D. 20605; January 23, 1899.)

Manufacturers and surplus stock:

Manufacturers of tobacco or cigars who do not sell leaf tobacco, but who purchase and temporarily store surplus stock intended for use at their several factories, will not be required to pay special tax as dealers in leaf tobacco, but such tax will be imposed should they engage in the business of selling leaf tobacco. (T. D. 19619; July 2, 1898.)

Manufacturers' sales to each other:

Manufacturers of tobacco or cigars may sell tobacco stems in their natural condition to other manufacturers, to qualified dealers in leaf tobacco, or to persons who buy tobacco stems in their natural condition exclusively for export, the purchaser of the stems not being required to qualify as a manufacturer of tobacco nor to export in bond the stems purchased from manufacturers. (T. D. 21518; August 16, 1899.)

Dealers in leaf tobacco required to make entry in red ink on debit side of Book 59 of tobacco returned, and, after checking, the collector will omit reporting the sale on abstracts, Form 434 or 435. (T. D. 21520; August 19, 1899.)

Methods of packing goods:

Manufacturers can not pack goods of another factory on goods made at their own factory. Manufacturers selling their own products at place of manufacture are not required to pay special tax as dealers in tobacco. Manufacturers are not permitted to pack stamped packages of smoking tobacco or stamped caddies of plug tobacco between the chime and head or bottom of such packages. (T. D. 19765; July 26, 1898.)

Tobacco tax—Cigars and snuff—Continued.

Minimum and higher tax rates:

Dealers in leaf tobacco, and manufacturers of tobacco or cigars, who were not engaged in business last fiscal year, are required on commencing business to pay minimum rate of special tax, and when sales during the year reach an amount requiring payment of higher rate, will make return and pay tax at the higher rate. (T. D. 19822; August 3, 1898.)

Minimum tax returns:

Tobacco dealers and manufacturers not engaged in business during the preceding fiscal year will pay the minimum rate of tax. The party paying the tax will be required to make return and pay a higher rate when sales exceed the limit. Special-tax stamp to be issued in each case to cover the period of time in which the liability to special tax commenced to the 1st day of July following. (T. D. 20633; January 24, 1899.)

Dealers in leaf tobacco are not permitted under the law to purchase refuse scraps, cuttings, clippings, or sweepings of tobacco for the purpose of selling the same to other dealers in leaf tobacco. (T. D. 20635; January 26, 1899.)

Outside storage allowable:

In case manufacturers of tobacco or cigars have not sufficient room in which to store their material, the Commissioner, upon application and for sufficient cause, will permit outside storage, provided the makers of the bond will indorse thereon their assent to be bound for transactions at the place where the tobacco is stored. (T. D. 20480; January 3, 1899.)

Peddlers required to give bond:

Peddlers of tobacco are not required to pay special tax under act of June 13, 1898, as dealers in tobacco, but are required to register and give bond as heretofore. (T. D. 19802; August 1, 1898.)

(See also Decisions 20592, 20603.)

Pictures on statutory packages allowable:

Pictures and other ornamentations, with descriptive matter, may be printed on statutory packages of tobacco, cigars, and cigarettes, notwithstanding the same have not been adopted as trade-marks for advertising the goods. Such pictures or decorations may be printed upon manufacturers' wrappers or labels, upon cigar packages, or the outside or inside case of cigarette packages, when they avoid any promise or offer of, or any order or certificate for, any gift, prize, premium, payment, or reward. (T. D. 245; November 15, 1900.)

Prohibitions of section 10, act of July 24, 1897:

Section 10, act of July 24, 1897, prohibits packages of smoking tobacco, fine-cut chewing tobacco, and cigarettes from having packed in, or attached to, or connected with them, "any article or thing whatsoever" of a foreign nature, and provides that there shall not be affixed to, or branded, stamped, marked, written, or printed upon said packages, or their contents, any promise or offer of, or any order or certificate for, any gift, prize, premium payment, or reward. In the case of United States *v.* Two Hundred and Eighty-eight Packages of Merry World Tobacco, brought in the District Court of the United States for the district of West Virginia, to determine whether there is any penalty provided for violations of this provision, and also to determine the question as to its constitutionality, a decision has been rendered holding the act constitutional, and that section 3456, Revised Statutes, provides a penalty. (T. D. 168; June 29, 1900.)

Regulations are framed respecting the contents and the marking and labeling of statutory packages of tobacco and cigars. (Series 7, No. 8, revised, Supplement No. 1.) (T. D. 185; July 27, 1900.)

Tobacco tax—Cigars and snuff—Continued.

Removal in violation of law:

All tobacco and cigarettes removed from the factory in disregard of the last paragraph of section 10, act of July 24, 1897, found in the possession of the manufacturer or his agents, stamps bearing cancellation, on and after the 20th proximo, will be seized for forfeiture. (T. D. 74; March 17, 1900.)

Repacking in smaller packages forbidden:

Dealers in tobacco or snuff are not permitted to break original packages of tobacco or snuff for the purpose of repacking in smaller packages. (T. D. 20597; January 20, 1899.)

Restrictions of dealers in leaf tobacco:

Dealers in leaf tobacco are not permitted to manufacture fertilizers, insecticide, or sheep dip from leaf tobacco or tobacco material, for the purpose of selling their products to the general trade. (T. D. 20584; January 18, 1899.)

Sales of cut or granulated tobacco:

A qualified manufacturer of tobacco is not permitted to sell cut or granulated tobacco in bulk as material, and without payment of tax, to another manufacturer, although the latter may intend to properly pack and stamp it as required by the statute.—Manufactured tobacco, whether cut, granulated, or scraps, the process or manufacture of which has been completed, is not subject to sale and transfer by one manufacturer to another, but must be properly packed, labeled, and stamped before removal from the place of manufacture. (T. D. 21451; July 27, 1899.)

Sales under special permit:

A manufacturer of tobacco, snuff, or cigars may, under special permit granted by the Commissioner, sell leaf tobacco, refuse scraps, etc., in bulk as material directly to another manufacturer. Stems rendered unfit for use in the manufacture of smoking tobacco or snuff may be sold as fertilizers, insecticide, or sheep wash. Manufacturers prohibited from selling stems in their natural condition, except sale is made to another qualified manufacturer of tobacco. (T. D. 19876; August 10, 1898.)

Special taxes based on total sales:

Collectors must be guided by decision of Comptroller of the Treasury that the special taxes of tobacco dealers and manufacturers who were engaged in such business during the preceding fiscal year shall be computed on the total sales in such preceding fiscal year without regard to whether the dealer or manufacturer was engaged in such business during the whole or only a part of said year. (T. D. 138; May 31, 1900.)

Tin box, properly marked, approved for packing:

A box made from tin, and similar in size to the ordinary commercial wooden box, which will admit of the proper labels, marks, brands, and stamps, and upon which the caution notice is directly imprinted, approved, under regulations, for use as a substitute for the ordinary commercial wooden box for packing cigars. (T. D. 20598; January 20, 1898.)

Manufacturers are not permitted to put up smoking tobacco in packages containing 6⅞ ounces of tobacco and affix two 3½-ounce stamps on such package. No provision is made by law for packages containing such quantity of tobacco. (T. D. 20600; January 20, 1899.)

Unstamped sample packages containing two small cigars, weighing not more than 3 pounds per thousand, will not be authorized. Such cigars are required to be put up in stamped packages containing 10, 20, 50, or 100 cigars each, respectively. (T. D. 20601; January 20, 1899.)

Tobacco tax—Cigars and snuff—Continued.

Transfer of leaf tobacco:

Dealers in leaf tobacco may transfer leaf tobacco to themselves as manufacturers of cigars, and such transfers will not be taken into account in estimating the liability of special taxes.—Such transactions do not constitute sales within the meaning of the statutes. (T. D. 21561; September 1, 1899.)

Transfer of special-tax stamp forbidden:

No provision of law by which a special-tax stamp issued to one person can be transferred to and made use of by any other person, except in the single instance of the death of the special-tax payer, expressly provided for by section 3241, Revised Statutes. (T. D. 20153; October 5, 1898.)

Union labels on statutory packages:

Union labor labels issued by a cigar makers' international union to manufacturers may be used by them in connection with their statutory packages of cigars, provided such labels do not contain any promise or offer of, or any order or certificate for, any gift, prize, premium, payment, or reward. (T. D. 201; August 17, 1900.)

Tobacco sales.

Accounting for scraps, cuttings, etc., required:

All tobacco material, including scraps, cuttings, and clippings, must be accounted for by a manufacturer of cigars in the condition in which it was purchased. If a manufacturer sells, or inventories as on hand, tobacco scraps, cuttings, or clippings which he produced himself from unstemmed leaf, the collector will reduce such materials to their equivalents in unstemmed leaf, 15 pounds of stemmed tobacco scraps, cuttings, or clippings of tobacco being equivalent to 25 pounds of unstemmed leaf. (T. D. 395; August 5, 1905.)

Dealers buying and selling loose leaf tobacco:

Dealers in leaf tobacco, having paid a special tax to engage in or carry on business at a public warehouse, may buy and resell loose leaf tobacco, which constitutes the breaks on warehouse floors, without being required to repack the tobacco in hogsheads, cases, or bales. Loose leaf tobacco purchased by them outside of the public warehouse from the farmer or grower of the tobacco is required to be repacked in hogsheads, cases, or bales before sale and removal from their place of business.

Exception: Cigar leaf tobacco may be sold by a qualified leaf dealer directly to a qualified manufacturer of cigars, in quantities less than a case or bale, for use in his own manufactory exclusively. (T. D. 21046; April 20, 1899.)

Distribution of free samples:

The distribution, as free samples, of packages of fine-cut chewing tobacco in unstamped subdivisions is unauthorized. Authority given under present regulations to put up subdivisions of statutory packages was intended to apply only to salable subdivisions for the retail trade. (T. D. 733; December 19, 1903.)

Exposure of cigars in end of packages:

Subdivisions of statutory packages are only authorized when they consist of a paper (unsealed) wrapper or inclosure cut off at one end, so that the cigars will be exposed. Subdivisions which conceal the cigars so that their size and number can not be ascertained without being withdrawn from the statutory package are in violation of the regulations. (T. D. 20674; February 2, 1899.)

Leaf-tobacco books:

Collectors are advised that, in the preparation of quarterly transcripts of the books of leaf-tobacco dealers, on Form 434, entries of all sales to purchasers in

Tobacco tax—Cigars and snuff—Continued.

Leaf-tobacco books—Continued.

one district should be made separately from sales to other districts—that is, the transcripts should not embrace more than one district—separate sheets being used for each district. (T. D. 675; July 3, 1903.)

Removal and sale of cigars unstamped:

Where a sheriff or constable removes cigars from a cigar factory without the same being properly boxed and stamped, as required by section 3397, Revised Statutes, as amended, and sells the same unstamped, he is liable to the penalty as prescribed under said section. Instructions as to further action in such cases. (T. D. 21167; May 16, 1899.)

Sales from original stamped packages:

A dealer who sells from a tax-paid package need not inquire into the purpose of his customer in buying. If he is not aware of the fact that the customer intends to resell in violation of law, he incurs no liability. While the responsibility rests upon the purchaser who resells, the person who sells him broken quantities of tobacco with the full knowledge that the customer intends to resell may be held liable under the statute, for he would be a party to and participant in the illegal act of his customer. (T. D. 720; November 23, 1903.)

Sample packages, etc.:

Sample packages containing either a less or a greater number of cigars than denoted by the stamp affixed to the packages are subject to forfeiture. A manufacturer of tobacco or cigars can not lawfully carry on business on factory premises as a dealer in tobacco, snuff, or cigars made at other manufactories, and if he desires to buy and sell products of other factories he must carry on such business at some place separate from his factory premises. (T. D. 21257; June 12, 1899.)

When a special-tax payer removes from one State to another, his special-tax stamp may be transferred under the provisions of section 3241, Revised Statutes, and the regulations; but when he sells out his business, his special-tax stamp can not be transferred to the purchaser to cover the same business carried on by the latter. (T. D. 241; November 9, 1900.)

Subdivision packages:

The Commissioner of Internal Revenue feels justified by existing statutes in abandoning the use of subdivision packages of smoking and chewing tobacco It has not been discovered that any legal authority exists for putting up packages of tobacco, snuff, or cigars in any sizes other than those provided by section 3362, Revised Statutes, amended. (T. D. 723; November 30, 1903.)

Tobacco taxes.

Fine cut; unstamped subdivisions as samples:

In connection with Treasury decision 723, issued November 30, 1903, with reference to subdivision packages, manufacturers of fine-cut chewing tobacco are authorized under present regulations to put up such product in subdivision packages, and so long as such subdivisions do not come within the designation of statutory packages, their size or weight is immaterial, but they must be sold and delivered directly from the original stamped package to the consumer. (T. D. 733; December 19, 1903.)

Leaf, Cavendish, stamping and labeling:

Packages of Cavendish, plug, twist or leaf tobacco may be used in subdivision packages in the business of jobbers and may be ordered as desired from manufacturers who are responsible for their being stamped, branded, and labeled in accordance with law and the regulations. (T. D. 712; October 23, 1903.)

Tobacco taxes—Continued.

Stamps imprinted on foil wrappers:

No order will be issued by a collector to a stamp agent for the delivery of imprinted wrappers except upon payment by the manufacturer of the full amount of tax represented by the stamps to be delivered on such order. Collectors will report each month on Form 76 *only* the number and value of the stamped wrappers of each kind for which they have received payment, properly charged in their accounts, and made orders on stamp agents for delivery. Collectors may keep a memoranda account with each manufacturer in the separate record containing the entry of stamped wrappers to be imprinted, crediting such account with amounts received in payment of stamps, until the stamps printed on the estimate have been exhausted, but they should not charge themselves in any manner on any form or report with the stamps contained in the original estimate and entry except when amounts are ordered and paid for as aforesaid. (T. D. 616; January 14, 1903.)

Trust companies.

Trust companies must include in their tax returns, as a part of their capital and surplus, the sum required by law of the State to be deposited as security for the faithful performance of all duties growing out of the trusts. (T. D. 401; August 8, 1901.)

Twist-tobacco packages.

Section 3362, Revised Statutes, requires that all twist tobacco shall be put up in wooden packages containing not exceeding 200 pounds of tobacco, and the statute has not been so construed as to permit manufacturers to put up small packages of plug or twist tobacco containing less than 1 pound. (T. D. 270; June 24, 1901.)

V.

Validating unstamped instruments.

It is held by the Commissioner of Internal Revenue that where instruments requiring stamps under the act of June 30, 1864, were issued without stamps, stamps issued under the act of June 13, 1898, may be used in lieu of the stamps of the issue of 1864, provided they are affixed in accordance with the law. This office holds that section 13 of the act of June 13, 1898, controls in cases of this kind. (T. D. 749; February 9, 1904.)

Vested interests—Taxable.

Existence for vested rights determined:

The Commissioner holds that a vested interest exists when there is an immediate right of present enjoyment, or a present fixed right of future enjoyment. * * * It is the present *capacity* of taking effect in possession, if the possession were to become vacant, and not the certainty that the possession *will* become vacant before the estate, limited in remainder determines, that distinguishes a vested from a contingent remainder. * * * When the event on which the preceding estate is limited *must* happen, and when it also *may* happen before the expiration of the estate limited in remainder, that remainder is vested. (T. D. 434; November 21, 1901.)

Life interest and legacy tax:

If a vested life interest in an estate exceeds the sum of $10,000, it is liable to legacy tax. It is the life tenant's expectancy of living, as shown by approved tables, which determines the value of the life interest. (T. D. 406; August 20, 1901.)

Vested interests—Taxable—Continued.

Life interest and legacy tax—Continued.

The vested life interest of a legatee, if the clear value of such interest, either alone or taken in connection with other beneficial interests, exceeds the sum of $10,000, is taxable, although no benefit from such life interest is received. (T. D. 406; August 20, 1901.)

Vested and contingent remainders:

As to vested and contingent remainders, the Commissioner holds, for purposes of the legacy tax, that, when there is an immediate right of present enjoyment, or a present fixed right of future enjoyment * * * it is the present *capacity* of taking effect in possession, if the possession were to become vacant, and not the certainty that the possession *will* become vacant before the estate, limited in remainder determines, that distinguishes a vested from a contingent remainder. * * * When the event on which the preceding estate is limited *must* happen, and when it also *may* happen before the expiration of the estate limited in remainder, that remainder is vested. (T. D. 434; November 21, 1901.)

Violations of revenue law.

Penalty for violation of revenue law:

Where a party was indicted, November 6, 1903, charged with a violation of the revenue law by selling oleomargarine without having the packages properly marked and branded, as required, the evidence showed that he had the goods marked and branded as required, but that the wrappers on which the marks appeared were folded in such a manner as to conceal the words required by the regulations. The court inflicted a penalty of ninety days' imprisonment and payment of costs. Decisions of this kind will be very helpful to this office in its efforts to enforce the law and regulations in reference to oleomargarine. (T. D. 735; December 26, 1903.)

Risk of seizure and forfeiture:

Wholesale liquor dealers who, by their own acts, place spirits in their hands in an illegal condition, must assume the risk of seizure and forfeiture of the same. (See Int. Rev. Circular No. 616.) (T. D. 455; January 2, 1902.)

Vermuth taxable as wine:

Vermuth is subject to stamp tax when bottled for sale as wine, without regard to the nature or style of label affixed to the bottle. (T. D. 425; October 24, 1901.)

Vouchers, deputy collectors.

Receipts taken by deputy collectors are often so incomplete as to be worthless as vouchers to an account. A receipt in addition to being dated must show when the expenses covered by it were incurred, and the nature and particular items of service; if for meals, indicate the same by their initial letters; if for livery, omnibus, or hack, state the distance traveled and the date. (T. D. 269; January 21, 1901.)

W.

Warehouse certificate—Special tax.

Conditional warehouse certificate:

Where conditional warehouse certificates are sold and fully paid for, the purchaser thereby obtains all rights that he could by purchase of unconditional certificates for whisky in bond, and the vender is required to pay special tax as a wholesale liquor dealer. (T. D. 300; March 16, 1901.)

Warehouse certificate—Special tax—Continued.

Payment of purchase money:

Special tax is not required to be paid for the sale at any place of a warehouse certificate containing a condition in regard to payment of the purchase money, if this condition is complied with by the payment, in whole or in part, of the purchase money at the place of business of the seller where he holds the requisite special-tax stamp as a wholesale liquor dealer. (T. D. 643; March 21, 1903.)

Warehouse receipts.

Commercial value of warehouse receipts:

A warehouse receipt, though not negotiable in the full sense in which a bill or a note is negotiable, is *quasi* or commercially negotiable. It is not only a receipt, but a contract to safely store and keep the goods subject to orders; and, as such, the law places upon it a stamp tax, whether it be negotiated or not. This construction is put upon the law by the circuit court of the United States for the western division of the western district of Tennessee, and is promulgated by the Commissioner for the information of all concerned. (T. D. 469; February 5, 1902.)

(See also Decisions 19615; 20118.)

Cotton compress receipts:

When cotton compress receipts become warehouse receipts. When taxable and when not taxable. Actual producers exempt from tax. The warehouseman is required to affix and cancel the stamp on all warehouse receipts which he issues and which are liable to stamp tax. (T. D. 19889; August 12, 1898.)

Warehouse receipts for cold storage for preservation of perishable commodities are not subject to taxation. (T. D. 20000; September 2, 1898.)

Definition of "warehouse:"

A warehouse is defined as a place where goods or merchandise in considerable quantities, not wanted for immediate use, are placed for safe-keeping, and are kept for hire. It is held that Congress did not intend to include in Schedule A places for the temporary preservation of perishable articles in small quantities, and receipts given therefor are not taxable. (T. D. 19737; July 20, 1898.)

Instrument constituting warehouse receipt:

The Commissioner holds that any instrument is a warehouse receipt that is issued by a warehouseman, and from which the fact that certain goods, merchandise, or property are deposited in his warehouse and held on storage for some particular person or persons can be reasonably inferred. (T. D. 186; July 27, 1900.)

Receipts for payment of storage:

A receipt given for the payment of storage after the storage has ceased is not taxable as a warehouse receipt, but that a bill for storage rendered at the time the goods are received on storage, or during the continuance of such storage, is an acknowledgment that certain goods have been received and are held on storage, and requires a 25-cent stamp as a warehouse receipt. (T. D. 179; July 17, 1900.)

Receipts given in cold-storage business:

Warehouse receipts given by companies in the cold-storage business are subject to tax, except receipts for agricultural products deposited by the actual grower in the regular course of trade or sale. (T. D. 19526; June 21, 1898.)

Receipts for whisky in bond:

Warehouse receipts for whisky in bond, although containing provisions which prevent the sale and delivery from conveying to the purchaser the absolute

Warehouse receipts—Continued.

Receipts for whisky in bond—Continued.

ownership and possession until the conditions are complied with, require the 25-cent stamp under the last clause of Schedule A, war-revenue act. (T. D. 19689; July 13, 1898.)

Warehouse receipt negotiable:

A warehouse receipt is a negotiable instrument under the law of Virginia, and where the tobacco, or the warehouse receipt, is "sold at any exchange or board of trade, or other similar place," a memorandum of such sale, made by the seller, must be stamped and the stamp canceled, under paragraph 2, Schedule A, war-revenue act. (T. D. 19744; July 21, 1898.)

A receipt or memorandum given by a warehouseman, or any signing by a warehouseman of an express company's book, or other receipt evidencing the fact that goods have been placed on storage, is a warehouseman's receipt, and requires a stamp tax of 25 cents. (T. D. 19832; August 4, 1898.)

The Commissioner of Internal Revenue can not decide whether the warehouseman or the private individual storing the merchandise shall affix the stamp. If there is any controversy, the remedy is in the courts. (T. D. 19833; August 5, 1898.)

Every separate consignment requires stamp tax. Such consignment may occupy several days. Stamp to be affixed to the evidence of consignment. Local operators need not give bills of lading, nor are their receipts taxable. Storage company, charging and receiving pay for increased risk, should pay tax for insurance. (T. D. 19840; August 5, 1898.)

Warrants of arrest.

Conditions precedent to arrests:

Collectors are instructed, in regard to warrants of arrest, that deputy collectors, acting under section 19, act of May 28, 1896, should not make sworn complaints upon the statements made to them by deputy marshals or private citizens, unless such parties themselves know the facts and can testify to their truthfulness as witnesses at the trial. Deputies should not swear to complaints, or file information before United States commissioners against parties until they have examined the witnesses as to the truth of the charges and satisfied themselves that there are reasonable grounds for believing that the charges are true and can be sustained. (T. D. 510; April 25, 1902.)

Wines. (See also Liquors.)

Bottled wine taxable:

A tax stamp must be put on the bottle when a customer presents it to be filled with wine. (T. D. 19735; July 20, 1898.)

Imported bottled wine taxable:

The provision of the act of June 13, 1898, in Schedule B, imposing tax on wines bottled for sale, applies not only to native wines and to wines bottled in this country, but also to wines bottled in foreign countries and imported into the United States for sale. (T. D. 19521; June 16, 1898.)

Reuse of stamps prohibited:

Stamps placed on bottled wine which failed of delivery by reason of imperfections discovered in the wine can not be reused. (T. D. 20159; October 10, 1898.)

Bottled wines "presented" to individuals are not exempt from stamp tax. The liability to tax in cases of bottled wines given ostensibly for charitable purposes is to be determined by the circumstances of each case. (T. D. 20205; October 18, 1898.)

Wines—Continued.

Tax on "sparkling" wine:

A tax is imposed on wine (Schedule B, act of June 13, 1898), namely, "Sparkling or other wines, when bottled for sale, upon each bottle containing 1 pint or less, 1 cent; upon each bottle containing more than 1 pint, 2 cents." When vintners are exempt from special tax—Provisions of United States laws do not interfere in any way with the provisions of the State laws or local ordinances. (T. D. 20152; October 5, 1898.)

Wines bottled for storage:

Wines bottled for storage in bins for aging purposes will not be regarded as having been "bottled for sale" until they arrive at a marketable condition. Wines sold by dealers and delivered in bottles must be stamped. (T. D. 19942; August 23, 1898.)

Wines for private use:

Liability to stamp tax of wines bottled for private consumption of manufacturer, use of employees, and samples furnished to salesmen. Tax on a quart bottle may be paid with two 1-cent stamps. (T. D. 19896; August 17, 1898.)

Wines, bottled—Stamp tax.

Fermented beverage from strawberry:

A fermented beverage made from the juices of strawberry and cider, and called "strawberry cider," is not cider, but wine, and, when bottled for sale, special tax must be paid thereon, under Schedule B, act of June 13, 1898. (T. D. 321; April 6, 1901.)

Treasury decision as to bottling wine:

Treasury decision 19961 holds that, "where a retail dealer fills a bottle from a barrel for his bar stock, from which he sells wine by the glass, he is not required to stamp the bottle;" but this exemption is not applicable to cases where a quantity of wine is transferred from a bulk package to bottles, there to remain for some time, whether intended for sale by the glass over the bar or otherwise. In such cases the general rule stated in Treasury decision 19961 applies, namely, that "the stamp is to be affixed when the wines are transferred to the bottles for sale, by the person who makes the transfer." (T. D. 443; December 7, 1901.)

Wine manufacturer—Special tax.

Exempting provision, 3246, Revised Statutes:

Under the construction now given by the Commissioner to the exempting provision of section 3246, Revised Statutes, relating to manufacturers of wine, the old ruling that manufacturers are entitled to sell at two places, namely, the place of manufacture of the wine and one general business office, has been revoked, and it is held that a manufacturer of wine can only sell at the place of manufacture, or at one business office, without being required to pay special tax. (T. D. 849; December 27, 1904.)

Liability for spurious wines:

A manufacturer of spurious wines from grapes, raspberries, etc., involves himself in liability under section 3449, Revised Statutes, to a fine of $500 and to forfeiture of said liquors or wines. (T. D. 477; February 26, 1902.))

Wine manufacturer as rectifier:

There is no provision of the internal-revenue laws involving a wine manufacturer in special-tax liability as a rectifier, for using cane sugar, rock-candy sirup, glucose sirup, corn sugar, and granulated sugar to sweeten his wine, if the wine is not fortified pure sweet wine. (T. D. 515; May 10, 1902.)

Withdrawal of spirits.

Spirits not branded "alcohol" under section 3287, Revised Statutes, must not be reported as "alcohol" nor withdrawn from bond tax free under section 3297, Revised Statutes. (T. D. 594; November 7, 1902.)

Writs and processes of courts.

Act of July 1, 1862, repealed by act of 1867:

The act of Congress, July 1, 1862, subjected writs, warrants, cognovits, and other legal documents to taxation, and thereafter the question arose in the courts of several States as to the validity of the requirement. Although the plenary power of Congress to raise revenue by the imposition of taxes, duties, imposts, and excises was admitted, it was held not to be sufficient to establish the power of Congress to tax writs and processes of State courts. On this ground, this provision of the law was repealed March 2, 1867; and the Commissioner holds that, as original processes can not be taxed, the copies thereof should not be. (T. D. 19971; August 29, 1898.)